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Research Report

Nunavut Justice Issues: An Annotated Bibliography 2000-7e

Prepared for the Research and Statistics Division,
Department of Justice Canada
by Naomi Giff

March 31, 2000

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The views expressed herein are solely those of the author and do not necessarily represent the views of the Department of Justice Canada.

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EXECUTIVE SUMMARY

This annotated bibliography brings together voices from across Canada, representing a cross-section of scholars, community justice workers, and government representatives to share some of the key elements that require consideration for community-based justice in the North (specifically in Nunavut). This collection addresses the Northern environment (social issues, crime and justice issues in the North), lessons learned (the nature and results of community-based justice projects in Canada), the nature of community relationships and the dynamics of community mobilization, as well as the inter-relationships between community-based justice and mainstream justice.

While the materials indicate that hard and fast answers regarding community-based justice development, implementation, and operation are difficult to present, the literature included in this report does highlight a number of key areas that play a fundamental role in facilitating success in community-based justice programming. Specifically:

- a community-driven approach that has addressed the power dynamics that may operate in the community,
- a clear articulation of *who* the community is and *how* they will participate,
- a holistic focus that understands and incorporates the role of recreation, health, and housing in crime prevention,
- supportive linkages between the community-based justice program and the relevant elements of the mainstream justice system, and
- a clear articulation of the needs of the community, as well as the goals and objectives of the initiative.

1.0 INTRODUCTION

The following collection of summarized research reports and articles are intended to shed light on some of the important issues that will shape and direct the delivery and administration of community-based justice initiatives in Nunavut. Specifically, the collection addresses four separate but inter-related areas and highlights the issues that arise in each. First, the social problems, crime patterns and justice issues that are specific to the North are explored. The Northern environment has a particular context that gives rise to particular needs and it is vital that this environment is understood. Second, the nature and results of community-based justice projects in the North and in Aboriginal communities across Canada are explored, where invaluable advice, experience, and 'lessons learned' are shared. Third, the collection illuminates the dynamics between community and mainstream justice; the types of relationships that may be developed and the types of links that can be expected. Finally, the collection draws attention to the need to understand the nature of community relationships and the dynamics of community mobilization.[1]

While recognizing that each community is unique in both its make-up and its needs, there are some underlying principles, articulated in this report, that may contribute to the success of meeting some of the justice needs of Northern community members, victims, and offenders. Common themes throughout the literature examined here include: the need for a clear articulation of the justice initiative's goals and stakeholders, the need for an approach that is grounded in and addresses the needs of the specific environment it takes place in, the need for a positive working relationship with the larger system, and the need for a high level of organization and flexibility. Most importantly, however, is the need to understand community dynamics. Community-based justice initiatives, to be successful, rely upon a clear articulation of *who* the community is, *how* it will be involved, the development of strategies that address inequalities, and an understanding of the power dynamics that operate within each community.

[1] A key element to examine when addressing justice issues in the North, as with anywhere, is ensuring that the needs of women are met and that women are primary players in the implementation, delivery, and operation of justice in the community. This aspect of justice in the north is not addressed in this particular report because these issues are being addressed in a separate project entitled *From Hips to Hope: Inuit Women and the Nunavut Justice System* undertaken by Crnkovich, Addario and Archibald.

2.0 OUTLINE OF THE REPORT

The 32 reports and articles contained in this annotated bibliography are intended to provide a snapshot of some of the key issues for community-based justice in the North. Specifically, in relation to environmental factors and context, past experiences and 'lessons learned', issues regarding the relationship between the mainstream Canadian criminal justice system and the community initiative, and the issues surrounding community relationships, involvement, and mobilization. Considering the large level of overlap that exist within these areas and within the literature that address them, the documents are not separated by theme, but rather are presented in alphabetical order. To separate them would be to suggest a distinction that simply does not exist.

For the most part, the annotation for each document addresses the methodology and relevance of the article in relation to Northern community-based justice issues, provides a general overview of the work, and identifies underlying themes or findings as they relate to justice issues in the North. For more accessibility and conciseness some of these are presented in point form.

Clearly, this report is only an introduction to the existing literature that addresses issues such as these. Much has been written that is not included in here. Nevertheless, these voices are a beginning to understanding some of the key issues in the planning, development, and operation of community-based justice initiatives, and being aware of them may facilitate the success of community-justice in the North.

3.0 OVERVIEW OF FINDINGS

The following section highlights the themes, issues and findings in the readings included in this report as they relate to Northern justice issues. These are divided into four sub-sections. The first addresses the specific context or environment that that community-based justice initiatives in the North – especially within Nunavut – will take place in. The second sub-section summarizes the themes surrounding the 'lessons learned' about the nature and results of community-based justice projects in Northern, on-reserve, and off-reserve communities in Canada. The third sub-section illuminates some of the key issues regarding the community-based justice initiatives' relationship with the larger, mainstream criminal justice system in Canada. Finally, the fourth sub-section addresses some of the key issues regarding the nature of community relationships in the North and the dynamics of community mobilization.

3.1 The Northern Environment: Social Problems, Crime, and Justice Issues in the North

There is without doubt a specific Northern environment. Consequently demographics, geography, and crime, as they operate in the North, must be recognized and incorporated into development and implementation plans. In fact, understanding that environment is vital to the success of any initiative, whether grounded in health, justice or politics.

Some specificities of the Northern environment that are discussed by the authors highlighted in this report include:

- The traditional settlement patterns are very different than the present artificially - constructed ones.
- Traditionally, Inuit peoples were nomadic.
- The North presents challenges and opportunities because of its vast space.
- The North, for the most part, is made up of small communities.
- Language is a key issue.
- In many communities there is inadequate and unsafe housing for the residents.
- Crime rates are high and represent a high level of violent offences.
- High rates of alcoholism are reported.
- High rates of domestic violence and sexual assault are reported.
- The general sentiment is that the circuit courts, intending to address this specific context, have failed to adequately do so.
- Within many communities in the North there is an absence of adequate mental health facilities, recreation facilities, and social services.
- Few lawyers are available to provide legal support and representation.

3.2 Lessons Learned: Nature and Results of Other Community-Based Justice Projects in Aboriginal Communities

While the number of reports that address the challenges and successes of community-based justice initiatives across Canada is limited, it is clear from the ones highlighted in

this report that some of the elements that play a key role in ensuring success can be identified. They are introduced below.

Need for high level of organization

The articles annotated in this report indicate that community-based justice initiatives in Aboriginal communities must not be haphazard. If these initiatives are to be effective in preventing crime, meeting the needs of victims and offenders, or empowering the community, there must be a structured and thought out plan for development and implementation. Consequently, the organizers must know the community and the intended goals of the strategy.

The role of tradition

Many have held that traditional Inuit mechanisms for social control and addressing anti-social acts are ineffective in the modern world. This is the result of both the policies that have oppressed Inuit communities, creating dependency and, in some cases, powerlessness, as well as the fact that many of the crimes that occur today did not occur in the past. However, the voices in this collection indicate that the *spirit* that guided the traditional mechanisms can be incorporated into modern-day situations and community-based initiatives.

Traditional goals had both proactive and reactive elements. Traditional mechanisms created an environment that prevented anti-social acts, as well as a process that adequately addressed the issue(s) at hand, attempting to heal the parties to the offence. These are goals that can be attained through modern terms such as 'restitution', 'community service orders' and 'reintegration'. Amalgamating tradition with modern is a theme that underlies many of the initiatives underway.

Justice is a process

It is clear from the literature that simply implementing a new program does not imply success. Flexibility and an effective feedback/monitoring system are required so that the program can be altered when necessary or tailored to better meet the community's justice goals. The voices in this collection speak to the fact that community-based justice initiatives involve learning through trying and the acceptance that refinement will always be necessary.

How 'success' is measured

Communities developing and implementing community-based justice initiatives must address what 'success' means to them and how it will be measured. For example, does it mean that there is reduced recidivism by those who may offend, or, fewer new offenders? Communities must ask where change is to be focused and how success will be defined.

The need for a holistic approach

In developing and implementing a community-based justice initiative, the strategy developed and adopted must incorporate all relevant social, economic, and political factors. Organizers must be aware of these factors as they operate within their community and the justice project itself must address (if not focus on) them. These larger issues,

especially in Northern communities, are intrinsically linked and must be holistically addressed and encompassed in their strategies.

Absence of the 'right way' to implementing community-based justice

The literature makes clear that there are no templates to offer a community starting a justice initiative and this collection, while illuminating the experiences of many communities in initiating, developing, and implementing programs, does not dictate the 'right' way. There are a variety of community-based justice initiatives and programs occurring, and depending upon the financial and community resources available, as well as the needs of the community in relation to justice programming, they all require varying levels of community abilities and resources. That being said, however, a few generalizations about common elements to success can be mentioned, as they are commonly stated in the literature:

- It is important that the community is aware of its abilities. This collection shows that things can be done if the community has both the desire *and* ability to take on the challenge.
- The voices in this collection all hold that the specific needs and abilities of the community must guide the justice initiative.
- There are a variety of needs that a community has, needs that differ (i.e., in some communities the problems stem from alcohol abuse, while in others the problems lay in 'sniffing' gas and other chemicals). These variances are important to be aware of so that any initiative can identify and attempt to ameliorate them.
- Communities also vary in terms of ability and desire to take on more responsibility for justice initiatives.

Establishing the initiative: Adult or youth?

The literature indicates that it is important that the initiative knows whom it intends to serve for a number of reasons:

- Adults and youths have different needs.
- Adults and youths often commit different crimes. Adult males tend to commit more violent crimes and youths tend to commit more property offences. This has implications on the strategies developed and the roles that the community will play in meeting the needs of the parties involved.
- Adult and youth initiatives have different avenues available to them (i.e., alternative measures in the *Y.O.A.*). As a result they will look and operate very differently.

Establishing the initiative: Multiple forms available

There are a number of forms that the justice initiative can take, depending on the level of organization operating, the relationships established, and the objectives of the project. Developers must think about whether it would be best for their needs and the community's goals to have the initiative operate within the system (i.e., sentencing circles) or outside of the formal system but dependant upon its assistance (i.e., tribal courts, justice committees) as well as whether the initiative will be community-based or organization based.

Language

The language used in most Inuit communities is Inuktitut. The issues that arise from the high use of Inuktitut and the implications that will have on any initiative must be adequately examined and explored. For example, interpretation, nuances, and meanings that are inherent in speaking Inuktitut, require adequate translation services.

Domestic violence

Throughout the literature it is clear that domestic violence is an issue that must play an integral role in any justice strategy adopted, especially in the North. The re-victimization of victims of spousal assault must not occur. The literature speaks to the fact that victims of domestic violence are re-victimized in a number of ways by the justice system – both community-based and mainstream. The cycle of violence is a real problem, one that requires an effective strategy to end it, not one that builds the re-victimization into the system.

The literature points out that the dynamics at the community level have the potential to incorporate this re-victimization in two ways. First, through negative views about women held by powerful community members. Second, through the inability of the community-based initiatives to adequately support or protect the victim by preventing the offender from abusing. These are issues that must be incorporated into the development and implementation of community-based justice initiatives.

Offender focus

Much of the literature speaks to the issues revolving an 'offender-focus' in community-based justice. This has been the reality of many past initiatives, and efforts should focus on not replicating this phenomenon. This offender focus is an unchecked consequence of the emphasis that is placed on healing and preventing the cycle of crime. Some feel that this precludes any real attention being given to the needs of the victim and that consequently extra attention to the victim may be necessary.

Importance of liaison services

Liaison services, such as the Native Courtworker program, victim-witness programs and Inuktitut-English interpreters are an important element of community-based justice initiatives. These services are essential not only because of the limited resources of the initiatives, but also because the community-justice initiatives will still have an interface with the Canadian criminal justice system. This interface introduces legal obligations on the part of the community-based initiative. These programs attempt to assist them in meeting those obligations and meeting their needs.

Prevention and healing

Prevention plays a vital role in many of the communities that develop and operate community-based initiatives. In fact, in the literature it is expressed as a key element. In this collection it is clear that prevention can take many shapes, depending on the particular situation and the specific needs of the community. As well, prevention means different things depending on who the intended targets are. Some of the issues surrounding this theme include the following:

- A number of distinctions must be made regarding the role of prevention. First, a different approach is necessary when discussing prevention as *preventing recidivism* and when discussing prevention as literally, the *prevention of criminal activity from starting*. Very different strategies are required of each. A second distinction has to be made regarding the role of prevention for adults and the role of prevention for young offenders. Prevention strategies will be very different for these groups.
- For adults, prevention often works in tandem with healing. Adults that commit crimes or anti-social actions often need 'healing' because their actions were a symptom of an underlying 'imbalance'. For many youths this may be the case as well, if they have already begun offending. For younger children, however, prevention does not necessarily mean healing, as it does for adults, but rather refers to preventing the youth from engaging in the criminal activity; developing a strategy that addressees the factors that contribute to a youth starting to engage in criminal activities.

3.3 Relationship with the Formal State-Operated Criminal Justice System

The voices included in this report also address the issue of how a community-based justice initiative in Aboriginal communities may interact with the formal, mainstream Canadian criminal justice system. It is clear that there are a number of issues that must be examined in order to ensure a mutually beneficial working relationship and matched expectations.

One aspect that must be considered is the level of and type of involvement, as well as the role(s) of the criminal justice system, its agents and agencies. Issues that must be addressed to avoid misunderstanding and distrust from all parties, introduced in the literature, include such things as:

- The support of the criminal justice system is vital to the success of any community-based justice initiative.
- Referrals: who and how? The initiative must address this question and come to an agreement with the justice agents in their community.
- The presence of a 'safety valve': when will the larger system become more involved with the initiative in order to protect the larger interests of the community and how will that be negotiated?
- How will the initiative avoid being undermined by the larger system? How will it be ensured that their goals and roles will not be co-opted or that control over the initiative will not shift to an external source?
- Offence threshold: what offences are too much for the initiative to safely and effectively address? The voices in this collection hold that the community cannot deal with all offences because some serious offences may be too difficult. In such a case, the community can play an important role in the post-adjudication area. For example, they can be involved in sentencing and advising on disposition. Or, individuals and Elders from the community can work with the offender on a one on one basis while incarcerated or once they are re-introduced to the community in order to reintegrate and assist in

rehabilitation. Consequently, although this is an important area to explore and understand, community involvement and control, at this point, does not have to be an 'all or nothing' situation.

Another issue for community-based justice initiatives in the North is the transfer policy of the RCMP. RCMP officers are moved to a different community approximately every three years. This has serious implications for justice delivery in the North in a number of ways. If this external policy is not addressed within the development and implementation of the justice strategy it may aggravate the operation of the initiative and delay the acquisition of its goals. The literature in this collection points out that this policy may:

- Prevent officers from becoming trusted by the community.
- Hinder efforts to apply community-based policy. For example, a new officer may undermine the initiative by not diverting cases to the community, or they may have a different vision of justice that does not reside in the wishes and needs of the community, but instead arises from the strict application of the *Criminal Code* and the goals of the formal mainstream system.

3.4 Community Relations and the Dynamics of Community Mobilization

The community is a key element in community-based justice. The success of the initiative is determined by the level of community support, as well as whether the needs and input of the community are incorporated into the planning, implementation and operation of the justice strategy. In this collection a number of issues are articulated that speak to the primary role of the community, the challenges involved in defining a community, and issues of power.

What is the community/who is the community?

In Northern communities, the community itself, defined by both culture and geography, is not difficult to locate. Northern communities represent a more homogenous group than found anywhere else in Canada. However, there are issues that revolve around evoking the term 'community' in community-based justice initiatives, and these issues must be addressed if true community involvement, integral to community-based justice in the North, is to occur. The issues in the literature include:

- Who will make up the community in community-based corrections?
- Who represents the needs of the community?
- How will community involvement be ensured?
- Whose interests will be represented and preserved by the community?
- How will the interests of all community members be represented and acted upon, particularly those less powerful in the community?
- How will community be defined? Does evoking the term 'community' imply all the members who live in that community (based on consensus/ geography) or the interests of the majority (based on a more political foundation)?
- Who will the community be accountable to?
- Will current inequalities that are present in the community be incorporated into the community-based justice system? What mechanisms are in place to address that possibility?

- What (pre) conditions (human and financial) are necessary for effective community involvement? What characteristics must the community have that will make community corrections and justice possible?
- It is important that the distinction between *community-based* justice initiatives (which are grounded in strategies developed, implemented and administered by the community) and *community level control* (community administration of the formal system's justice strategies, where the development is done 'elsewhere') is addressed.

Power dynamics

There are a number of issues regarding power dynamics in the community that must be examined at all stages of community-based justice planning:

- The power dynamics between men and women have to be addressed. Inequality must not be built into the system.
- The underlying power struggles and powerlessness that characterizes domestic violence and sexual assault must not be replicated.

Low levels of community involvement

Strategies must be developed to address the potentially low levels of community involvement which characterizes many community-based justice initiatives' efforts.

4.0 ANNOTATED BIBLIOGRAPHY

Allakariallak, Elizabeth and Vera Kameda. "Culture and Recreation Programs as Crime Prevention" in *Justice and Northern Families In Crisis... In Healing... In Control.* Burnaby: Northern Justice Society, Simon Fraser University, 1994.

This article, part of a workshop compendium, examines the impact and role of organized recreation on crime prevention. The participants discuss how it is that recreation and play prevent young children from beginning to engage in criminal activity and supplies diversion for those youths that have already begun. It addresses the Northern environment and speaks to lessons learned

General Overview
This article is part of a larger collection that addresses the transitional status of many Northern families from a situation of crisis to one of control through healing. Through their dialogue with the audience members Allakariallak and Kameda addressed the very important but often ignored role of recreation and play in crime prevention, especially in the North. Many issues came out of the exchange of questions and comments. The resource persons for this particular discussion were Elizabeth Allakariallak (Government Liaison Officer, GNWT, Resolute Bay, NWT) and Vera Kameda (Recreation-Tourism Industry Consultant, Ministry of Culture, Tourism and Recreation, Dryden, Ontario).

Underlying Themes

- The participants held that the best approach to justice in the North is to help children develop self-esteem and positive community values.
- Recreational programs and a recreational committee are very important, particularly in relatively isolated communities such as Resolute Bay, NWT.
- Recreation and play is integral to developing self-esteem, reinforcing the idea of belonging to a community, and helping an individual learn about themselves - their interests, strengths, weaknesses. Recreation and play also assists individuals to better understand and interact with their environment while reinforcing positive social norms.
- Organized recreation does not just happen; it is not a spontaneous occurrence. It requires organization through planning and consultation so that the resulting efforts are, in fact, fun and pleasurable for the youths.

Findings and Issues addressed in the dialogue
The role of organized recreation and positive leisure time activity: Such activities can operate to prevent the involvement of Inuit youth in criminal or anti-social activity. Organized recreation addresses boredom, thereby preventing crime (often youth admit they committed a crime or an anti-social act because they were bored). It also encourages the development of relationships and a sense of belonging to groups larger than oneself. This instills a sense of responsibility and belonging. Finally, organized recreation teaches children and youths about themselves and their personality. This instills a sense of ownership over one's actions.

Games and recreational activities are a part of Inuit tradition: The participants spoke of many activities that they considered traditional activities. Thumb games, Inuit wrestling, and football with mooseskins were some that were mentioned.

Activities need to vary: They cannot be prescribed because they have to reflect the interests of the participants. There has to be an incorporation of the youth's interests within the organized activity. If there is something they want to do, the participants recommend encouraging them and supporting the activity. Some audience members spoke of their surprise when youths wanted to learn martial arts or rap dancing, but they happily put the effort in to provide that activity. The youths have to set the curriculum, otherwise they will not enjoy the activity.

Activities taking place: There are a number of activities going on in many Northern communities that utilize the principles behind this discussion: wilderness camps where the youths learn traditional skills, inter-community sports leagues, drumming, international showcases, white-water canoeing, and snowboarding,

Addressing the challenges to utilizing recreation in Northern communities: There are a number of challenges that must be addressed: Getting people and youths interested is not always easy and low levels of interest in the community have to be overcome. Another challenge is limited resources – human and financial. It is difficult in many communities to find individuals who are willing to organize events, listen to what the kids want to do and try and get that happening in the community. When those individuals are available, there are often limited financial resources to make some of the activities possible. The participant's response to these challenges is to ensure that these activities are owned and developed by the community. The participants stated that if the community owns it, the community would have a desire to be involved and this may address low community involvement. Further, although limited funding can be a problem, the participants suggest the community members look to what their particular environment has to offer and plan activities within it.

Cyclical / reinforcing effect of recreation: These activities have the potential to strengthen the community. By organizing recreational activities for youths, adults and Elders in the community are helping themselves. There are generations of Northerners who were taken from the community and, as a result, lost their knowledge of how to play on the land. By encouraging and facilitating the activities for children, they too are being (re)taught how to play.

Avison, Don, Alice Mackenzie and Helen Nuvalik Tolonganak. "The Changing Role of Native Courtworkers in Northern Justice Society", *Self-Sufficiency in Northern Justice Issues* Burnaby: Northern Justice Society, Simon Fraser University, 1992.

This article, part of a workshop compendium, describes the important roles played by Native Courtworkers. Through examining the variety of functions they fulfill for both the community and the circuit court, this program plays a vital role in justice delivery in the North and must be given further support. Courtworkers often act as lawyers and they are the voice of the community in many cases. This cannot be overlooked when discussing justice in the North. This piece addresses the Northern environment, lessons learned, and the relationship with the mainstream criminal justice system.

General Overview

This article is a part of a larger collection that addresses the potential for criminal justice self-sufficiency in the North and some of the strategies that communities can use to facilitate it. The participants are often front-line community workers and through their dialogue and commentaries some of the important issues on the topic are uncovered. The discussion is led by a resource person(s) and the information they provide is often not scripted, but spontaneous discussion and sharing of experiences.

The participants discuss the fundamental role of Native Courtworkers in the delivery of justice in the North. They also examine the particular challenges that the Northern environment presents for the Courtworkers. These issues must be incorporated into reform initiatives. In this workshop the roles of the Courtworkers in remote Northern communities were explored as well as the challenges they face. Nunavut agencies, although certainly focusing on community-based justice initiatives, will have to rely on the Courtworker to continue facilitating justice in the North. These voices make clear that the challenges that Native Courtworkers face in meeting their professional goals must be part of the reform agenda. The resource persons for this workshop included Don Avison (General Counsel/Director, Department of Justice, Yellowknife, NWT), Alice Mackenzie (Mackenzie Courtworkers Services, Yellowknife, NWT) and Helen Navalik Tolonganak (Courtworkers Supervisor, Courtworker Program, Kitikiemeot Regional Council, Cambridge Bay, NWT).

Underlying Themes from the Dialogue

- Courtworkers are an integral component of justice delivery in the North. They will continue to play an important role as long as the infrastructure of justice is administered from outside the community and is in the form of a circuit court.
- The important roles that Native Courtworkers have are the result of the circuit court system of justice and the inadequate justice services they make available to Northern communities.

Findings

Native Courtworkers have a number of roles: Clients and lawyers in the North often do not speak the same language (many Northern residents only speak Inuktitut while many of the lawyers and judges only speak English and/or French). As a result, Courtworkers often act as **interpreters and translators** between clients and their lawyers and clients and the court. They explain the criminal justice system to the accused and in some cases they act as a **paralegal**, representing the accused when counsel is not available. Courtworkers convey the needs, values and interests of the communities to the courts and assist in **making communities meaningful to the courts.** They are able to do this through their Inuktitut interviews and/or because of their experience with(in) the community. Courtworkers also invest a lot of time in developing personal relationships and spending time with the community. This helps to ensure that their activities are as relevant to the community as possible and they are able to do the most effective job possible. The Courtworkers in the discussion recognized that this is a key element in assisting the community in any meaningful way.

The challenges Native Courtworkers face: The participants held that the major problem facing Native Courtworkers in Northern communities is the lack of an effective professional support system. They have an awesome responsibility in that they are often the only person in the

community that others depend on for information and assistance in legal matters. Being alone in this responsibility can often result in professional isolation. This, combined with the geography of the North and the isolated nature of many Northern Inuit communities can contribute to a sense of being abandoned.

Future directions for Native Courtworkers: In this workshop, the participants discussed the idea of enlarging the role of the Courtworkers (officially) within the Justice of the Peace courts. There was mixed support for the initiative. They spoke of how such an approach would better serve the legal needs of the communities, how it may address some of the limitations of the adversarial process and how such an approach may better meet the needs of the victim. The move was also seen by some of the participants as a limited direction for reform. Such an expansion, which focuses on better delivery of the formal justice system, does not represent a community-based path. Justices of the Peace courts are still working within the framework of the larger criminal justice system, its form and content, and serves the interests of the larger system, not necessarily the community.

Bayly, John U. "Unilingual Aboriginal Jurors in a Euro-Canadian Criminal Justice System", in *Aboriginal Peoples and Canadian Criminal Justice* Vanvouver: Butterworths Canada Ltd., 1992.

This article provides an overview of the challenges surrounding language and community participation regarding jury trials in the Northwest Territories. These are challenges that will have to be overcome if Northern communities choose to have trials by jury. The Territorial government of Nunavut will have to take these lessons learned and attempt to incorporate alternative ways of doing things to adequately address the limitations in the system as it exists for communities. Specifically, the importance of investing in trained interpreters - not just for the jury system- but for the whole justice system is introduced. However, the article does not challenge the form of juries or question the assumptions of utilizing formal juries, as they are practiced in the justice system, within Aboriginal communities. Perhaps the principles would be the same between a community decision-making process and a jury - but the form is ultimately very different. Instead, the author addresses the language issue and the limited role that juries can play in communities where there is a large unilingual population. This article speaks to lessons learned and the Northern environment.

General Overview

This article was prepared for the VI International Symposium, Commission on Folk Law and Legal Pluralism in 1990. The author addresses the impact that the language requirements for a jury trial in Canada have on unilingual (Inuktitut only) residents in the North. Prior to the *Act to Amend the Jury Act* in 1989, jury members had to be fluent in one of the official languages - English or French. The author examines how that requirement restricted the inclusion of unilingual community members on juries. He also examines the failure of that Act to have any significant change since there is (1) a lack of community desire to participate as jurors and (2) the government has failed to ensure administrative preparedness. Through his analysis a number of important points are brought to the fore regarding language and the administration of justice.

Underlying Themes

- Jury trials are desirous and effective in Aboriginal communities.
- Juries work in situations where the jury members know the accused and the victim.
- Juries are important because they represent community values.
- Unilingual Aboriginal community members should not be excluded from the jury process and the problems confronting unilingual jury members can be overcome.

Findings

Historical right to trial by jury: The author spends a fair amount of time examining the historical right to a jury trial. He discusses the importance and legal principles behind being judged by ones peers through history and up to the present entrenchment of section 11(f) of the *Canadian Charter of Rights and Freedoms*.

Requirement that a juror be proficient in the official language of the trial: Prior to the 1989 enactment of the *Act to Amend the Jury Act*, this requirement severely limited a large segment of the (Northern) community's population from taking part in a jury trial. Specifically, it has left many Elders ineligible for jury duty. This, the author states, is a problem because these are the very people that should be represented. Elders play a large role in decision-making in the community and by excluding them customary law is being further marginalized.

The passing of the Act to Amend the Jury Act in 1989: This Act, passed, in 1986 was intended to change the situation in the Northwest Territories, where many community members are excluded from participating as jurors in their community because of the language requirement. The *Jury Act* was amended to include a new section that stated that if the individual speaks neither French nor English, but does speak and understand an aboriginal language as defined in the *Official Languages Act*, that they will not be excluded from participating on a jury based on language. As a result, those formerly disqualified may be eligible jurors.

Post 1989 enactment - further limitations - lack of community support and administrative difficulties: After the *Jury Act* was enacted a number of difficulties emerged. First, large numbers of **community members did not want to be jurors**. They would inform the court that they could not participate due to infirmity or deafness, because they are relatives or friends of the accused or victim, or that they have children to care for at home. While the Jury Act removed the inability to speak English as a reason to be excused from jury duty, community members responded by advancing others. The author holds that this is the result of the undesirable nature of jury duty, generally, for most Canadians (as a boring, long, and foreign process), but that it is especially difficult to act as a juror in a small community. **Administrative difficulties** were also experienced. The amendment to the Jury Act presupposed the availability of interpreters - both familiar with the language as well as how to describe legal concepts and terms to the accused. They are rare in the Northwest Territories, and there were not enough at the time of the enactment to meet the need that would adequately incorporate the unilingual jurors. At the time of the writing of this article, the author notes that because of the lack of administrative preparedness and unavailability of interpreters, it was back to a situation where venues were changed and unilingual community members were excluded.

Addressing these issues in the courts: The courts have been left with having to find ways to address the limitations placed upon incorporating unilingual jurors. For example, the author

points out that in one case, where a legal interpreter was not available, the Crown and defense agreed not to oppose the excusing of unilingual jury panel members.

Conclusions
A number of issues will have to examined if jury trials are to take place in Northern Inuit communities where there are a large number of unilingual Aboriginal peoples:

- The main issue is of training interpreters. Sufficiently trained and experienced interpreters are needed, and as of the writing of this article, were not available.
- Lawyers and judges will have to learn to work effectively with interpreters. For example, they will have to use language and syntax that can be easily translated.
- It is unclear what may happen in a case where the defendant insists on his right to select a jury from a panel that includes unilingual aboriginal panelists where qualified interpreters are not available.
- At the close of trial, should the interpreter be allowed to go into the deliberation room to assist the unilingual jurors, even though by law these deliberations are to be done in secret?
- The issue of time: the proceedings in a mixed jury will take much longer. If these types of trials become more frequent, an expansion of the courts may be necessary to accommodate them.

Brier, Heidi, Agnes Krantz, and Douglas Miller. "The Relevance of Community Legal Service Centres", in *Self-Sufficiency in Northern Justice Issues* Burnaby: Northern Justice Society, Simon Fraser University, 1992.

This article, part of a workshop compendium, highlights the important role that community legal centres play in the Northwest Territories and in small, isolated Northern communities. The participants held that while the Euro-Canadian criminal justice system is in place, these centres provide an invaluable resource to the community. They assist in interpretation, they explain the justice/legal process and attempt to ensure community resident(s) know their legal rights. However, there are a number of challenges that limit their effectiveness to Northern residents. Specifically addresses are lessons learned, the Northern environment and the relationship with the mainstream criminal justice system.

General Overview
This article is a part of a larger collection that addresses the potential for criminal justice self-sufficiency in the North and some of the strategies that communities can use to facilitate it. The participants are often front-line community workers and through their dialogue and commentaries some of the important issues on the topic are uncovered. The discussion is led by a resource person(s) and the information they provide is often not scripted, but spontaneous discussion and sharing of experiences.

This workshop describes the community legal services in the Northwest Territories and the role they play. The participants represented both Inuit and non-Inuit legal aid services. After outlining what the present situation of community legal services was- (the roles they may play and the challenges they face in three Northern communities), the focus turned to what an ideal

legal service centre would like. Through the discussion many issues about community legal services in the North were examined and many conclusions can be drawn for incorporation of such services in Nunavut.

Heidi Breier (Executive Director, Arctic Rim Law Centre, Tuktoyuktuk, NWT), Agnes Krantz (Lawyer/Director, Keewatin Legal Services Society, Rankin Inlet, NWT) and Douglas Miller (Executive Director, Legal Services Board of the NWT, Yellowknife), were resources persons for this workshop.

Underlying Themes from the Dialogue

- Regardless of the justice initiatives that are being developed or implemented, there is a need for communities to be aware of their rights and responsibilities within the Canadian justice system that surrounds them. As a result, community legal service centres play an important role in sharing that information by acting as a tool and a resource for communities and individuals.
- The unique nature of the Northwest Territories environment, such as its size and vast distances, as well as the cultural and ethnic differences that it represents are all issues that must be identified and addressed when forming a community legal service centre. This is especially necessary when forming an umbrella group that oversees the many community legal services organizations that may exist in the future.
- Community legal service centres intend to represent the community. However, those that operate the centre may often not be from the community. As a result, legal service organizations must take their direction from the community to ensure community-level representation.
- A tension exists regarding the desirability of community legal service centres. Some participants pointed out that it may be seen as a 'tool' of the dominant legal justice system and that in the face of growing support for traditional, fundamentally different justice initiatives, individuals and organizations may be better served committing their financial and personal resources to other alternative community-based that may better address the justice needs of the community.

Findings

Community legal service centres play an important role (and perform many functions) in the administration of criminal justice in the North: The main goal of the community legal service centre is not to intrude or force a particular vision or way of doing things, but to serve the community. They ensure that individuals in Northern communities have **access to their legal rights**. Also, there are serious and wide-ranging problems facing Northern residents: high levels of violence and property crime, drug and alcohol abuse, low education and employment levels. For many communities, a community legal service centre, as part of an infrastructure, can act as a source and base for changing this situation through their **role as a resource**, providing referrals and appropriate references for individuals in the community. Many individuals in Northern communities do not speak English or French, or one of these is their second language. There are few, if any, bilingual lawyers in the Northwest Territories, that are able to speak Inuktitut *and* French or English. As a result, interpreters are often needed by the community to explain the process and better represent their needs to the court. Court workers, as part of the community legal service infrastructure, **act as interpreters for** the members of the court and the community

so that those who are subject to the court and those that control the court have a better understanding of each other.

Role of the community: The participants indicated that the establishment of community legal service centres must originate from the community. The community is responsible for requesting a community legal centre and then for guiding its roles and its work within the community once it is there. Such a community-based focus is part of the mandate of the community legal centres.

Challenges of community legal service centres in the Northwest Territories: The community legal service centres in the Northwest Territories face many challenges. Many communities have a **low level of interest** on the part of community residents. Since the community has to support and request a legal service centre, low support will limit its effectiveness to address the justice needs of the community. Another challenge is the impact that the large demand for **assistance in criminal matters** has. As a result of the pressing and urgent nature of the criminal matters in the community, the centres are unable to address the civil matters that their mandate requires them to. Finally, there is not enough **funding and resources** to do all the things within their mandate.

Suggestions: What would an ideal community legal service centre look like? According to the participants in this workshop, the ideal community legal service centre would have a number of elements. It would have an **independent board of directors** that would ensure that a community-based focus is developed and maintained through community input. It would have enough lawyers so that proper and appropriate **attention can be paid to civil and criminal representation**. It would see the role of the **Court worker expanded and supported** in a number of ways. Court workers would be given more appropriate training and enlarged responsibility. There would be a shift to addressing **Aboriginal justice issues**, made possible through more specialized resources for information and a broader funding base. This would represent a shift from addressing 'Native peoples and justice' to addressing 'Native justice issues'. Finally, **legal education** would be an important part of its activities so that community members and Northern residents would have more information about how the justice system works.

Bryce, Sandy, Debra Dungey and Lynn Hirshman. "Preventing Family Violence in Northern Communities", in *Self-Sufficiency in Northern Justice Issues* Burnaby: Northern Justice Society, Simon Fraser University, 1992.

Domestic violence is intimately linked to crime rates and a cycle of criminal activity in Northern communities. Not only must it be eradicated so that there will be less criminal activity both engaged in and perpetuated in the community, the lives of female victims and children need protection. It is a multi-faceted problem that requires multi-faceted strategies. This article, part of a workshop compendium, does not attempt to articulate a specific plan of action to end the cycle of violence, it simply asserts that it is those within the community who know what needs to be done. At the same time it recognizes that the community is not always a safe place for women. Communities are unique – so must be responses to crime, especially domestic violence. Issues of power dynamics at the community level and the Northern environment are addressed.

General Overview

This article is a part of a larger collection that addresses the potential for criminal justice self-sufficiency in the North and some of the strategies that communities can use to facilitate it. The participants are often front-line community workers and through their dialogue with audience members some of the important issues on the topic are uncovered. The discussion is led by a resource person(s) and the information they provide is often not scripted, but spontaneous discussion and sharing of experiences.

This workshop addressed some of the many issues facing the cyclical nature of family violence in the North. The participants discussed prevention strategies and some of the particular challenges such strategies will face. The resource persons for this workshop included Sandy Bryce (Assaultive Husbands Intervention Program Manager, Department of Justice, Whitehorse, Yukon), Debra Dungey (Family Violence prevention Unit, Department of Justice, Whitehorse, Yukon) and Lynn Hirshman (Faculty of Social Work, University of Manitoba (Thompson), Manitoba).

Underlying Themes from the Dialogue

- Like all Aboriginal communities that are suffering from an epidemic of domestic violence, Northern communities have a specific context that family violence takes place in. Such a context has to be fully understood before real change can occur.
- Social problems are the core of all the issues that need to be addressed. Any justice initiative that intends to effectively address anti-social or violent behaviour must recognize that these are simply symptoms of more serious underlying issues. It is these core issues that require the most attention and resources (financial and human) if the cycle of abuse is going to be broken.

Findings

Northern specific issues: The unique nature of the Northern environment and the communities that reside there must be understood and incorporated into any initiative. Small, isolated communities face particular situations and challenges that communities that are not so isolated may not. These particular challenges affect a woman's ability to leave an abusive relationship. The participants drew attention to the role of community support for the victim and the effect that a lack of such support has on her ability to leave an abusive environment. If an abused woman wants to leave a violent relationship and the other community members do not support her, it is possible that she may stay in that abusive relationship, being further victimized. Similarly, the lack of agencies in small, isolated communities, agencies that may provide protection, such as police, may also affect a woman's decision to stay in an abusive relationship. Finally, the participants concluded that if the services and programs adopted are imported from the Southern bureaucratic process, they will not meet the unique needs of the victim. The Northern landscape and needs that arise from it are fundamentally different from the needs of the South. As a result, such Southern-based proposals, if forced upon the community, will more than likely fail to protect the victim.

Role of the community: The participants held that the community must take ownership of family violence. They must take responsibility for ending it and preventing it. This requires looking at a host of other areas: alcohol and substance abuse, a return to many traditional lifestyles, and the renewal of respect for Elders. In many cases government bureaucracy will make this difficult,

through the application of mechanistic, rigid, and bureaucratic rules. In such a situation, the participants suggest that a creative process be utilized. The message the participants gave was to not bother waiting for government to make any real steps, either in dismantling the offensive regulations or funding programs. As one participant stated, it's easier to get forgiveness [from the federal government] than permission.

Power dynamics and politics within the community: The politics of the legalistic system that forms the basis for the development and implementation of programs must be addressed along with the politics of the community. In other words, the ideas that may reinforce the cycle of abuse and the marginalization of women in Inuit communities must be brought out into the open and challenged. They must not be incorporated into any new justice initiative.

Role of prevention: Prevention plays an important role in ending domestic violence. Prevention strategies must incorporate working with children in the community, building their self-esteem and their conflict resolution techniques. Often low self-esteem and feelings of powerlessness underlie violence and the goal is to address how these feelings are developed and then attempt to prevent them.

Canada. *Community Development and Research.* Ottawa: Solicitor General, Aboriginal Peoples Collection, 1996.

This document is a useful tool for understanding the relationship between community development and research as well as the specific research needs that Aboriginal communities have identified, highlighting the community dynamics and mobilization issues that must be addressed.

General Overview

This report is the result of an intensive two-day workshop held in August, 1994. The information was gathered through two days of discussion. Participants that took part in the focus group included individuals involved in community development initiatives in Aboriginal communities, academics, private-sector consultants and Aboriginal Corrections Unit Staff.

Discussion at the workshop centred around questions such as 'what community development is', 'how government can assist in community development,' as well as some of the issues regarding research and Aboriginal peoples, and the specific needs underlying community development and community development projects. The goal was to shed light on the opportunities and roadblocks that affect community development and community research, generally, and make suggestions for overcoming them. Important considerations that have come out of past experiences were the focus, not specific strategies. Included in this document is a comprehensive list of funding sources and resource people.

Themes

- There is a relationship between community development and research. Effective community development requires quality research into a number of areas.

- Research is a valuable tool. Quality research investigates and uncovers the unknown, highlights problems and concerns, and shows the way some solutions may be developed.

Findings

Defining community development: Participants provided definitions and examples about what community development is and spoke about the basic themes of community development. They concluded that community development puts the community in control of development and direction. This in turn builds their capacity to grow and develop in a way (and time frame) which suits them. Community development uses the past and present traditions to affect the future. It is essential that the entire community be involved in the process. Examples of community-based development programs that they discussed included Hollow Water Community Holistic Circle Healing, St.Theresa Point Youth Court System, and the Teslin Tlingit Tribal Justice System. In all of these initiatives the community took control and ownership of the problem and acted on what they perceived as the most effective way to respond.

Views on Research: The participants concluded that although research is a valuable tool, there has to be a shift in how it is done. There was a shared concern about the lack of community involvement in developing research projects and they concluded that communities need to be more involved in all stages of the process if real community development is to come out of the process. The objectives and methods that have been used in the past are also problematic. In other words, Western models do not capture the Aboriginal specific needs in relation to research. They want to capture a holistic perspective, not just the views of a few members. Community members must be leaders in the project and what they have identified as their needs must drive the research.

Undertaking a research project: Participants held that communities must identify what is being researched and why, they must ensure that the type of research chosen will meet the needs or objectives of the project, and there must be committees to answer these questions and oversee the process. This will ensure that the community is not left out. The participants also addressed the challenge presented by the apathy of community members, their general lack of interest to get involved, and discussed how this too must be incorporated into the process. Finally, they discussed the role of consultants and how and where to apply for funding.

Role of the federal and territorial governments: Participants found that there was consensus among the group that governments can best help community development by being supportive and flexible; by being a responsive partner in the goal to develop healthy communities. Along with providing financial help, the government must listen to the needs of the whole community - not just the leaders or organizations representing them (i.e. they must ensure they hear the voices of women and children). The governments must also help communities with the difficult bureaucracies that they will have to find their way through. Finally, governments must be willing to learn from the information shared by Aboriginal peoples.

Condon, R. "Changing Patterns of Conflict Management and Aggression Among Inuit Youth in the Canadian Arctic: Longitudinal Ethnographic Observations", *Native Studies Review* 8 (2) 1992.

This author examines the impact of individualizing forces on one Northern community and how they have affected the community member's ability and desire to address interpersonal conflict, addressing the Northern environment.

General

Condon examines the changing pattern of aggression of Inuit youth in Holman, holding that there has been an increase in interpersonal conflict that has developed hand in hand with a decrease in the community's ability to employ traditional techniques to address such conflict. He attributes these changes to the increasing influence of Southern media (alcohol, mass media and southern system of law). He concludes that the result is that there is a decreasing influence and power of traditional conflict management/avoidance techniques in the community.

His methodology included longitudinal research. Over a ten-year period that incorporated three extended trips, Condon conducted research in a small, isolated Inuit community (Holman, NWT). Information was gathered through field work/observation, formal and informal interviews. He was in the community between 1978-1980, 1982-1983 and 1987-88.

Themes/Assumptions

- Increased interpersonal conflict in the community is the result of population concentration, alcohol abuse, the influx of southern media and economic marginalization.
- Traditional techniques used by Inuit in Holman no longer work in the community because social inter-relationships and inter-dependencies have been undermined.
- The researcher holds that the lack of centralized, political bodies within traditional Inuit societies has contributed to the increased use of outside law enforcement agents and agencies by modern Inuit society when faced with increased conflict in their community.

Findings

Significant changes in the pattern of aggression of the residents of Holman, particularly youths: Through his research, Condon noted that with each visit to the community, more interpersonal conflict was occurring. This was based on his observations and interpretations of the interactions of youth in the community as they played sports, where he observed significant changes in the level of interpersonal conflict. This finding was also based on the crime data and interviews, which suggested that there were increased incidents of aggression and conflict among young people and that these were often alcohol-related.

Causes of the rise in aggression and interpersonal conflict in Inuit youth: The author attributes the rise in interpersonal conflict to be largely the result of exposure to southern mass media (especially television), alcohol abuse and the disappearance of inter-dependency and social cohesion in the community.

Traditional patterns of conflict resolution: Traditional patterns of conflict resolution were based on a delicate balance between non-interference and dependence. Community behaviours limited conflict through practicing tolerance and non-interference and internalizing emotional inhibitors. Conflict was lessened through the development and maintenance of links and inter-relationships that were based on economic and social obligations such as marriages. Hostility was diffused through conflict management techniques such as humour, laughter, and gossip. When conflict did occur, the focus was on immediately restoring peace.

Changes in the community - The limited effectiveness of traditional techniques: The researcher holds that the traditional techniques are largely ineffective now. The social and economic changes that have affected modern Inuit society have individualized the community. For example, people now reside in densely populated communities and consequently physical withdrawal or social ostracism are, for the most part, largely ineffective as sanctions. Similarly, the shift from subsistence hunting to a wage-based economy limits the need for sharing and cooperation. These changes represent a less inter-connected kinship pattern and a decreased reliance on networks within the community. As a result, the need to maintain harmony is no longer driven by the community dynamics and the conditions that limited conflict in the past have become somewhat non-existent.

Significant changes in patterns of conflict management - An increased reliance on external law enforcement: The decline in use and effectiveness of traditional conflict resolution techniques as a result of social changes in the community has developed hand-in-hand with the increasing reliance on outside law enforcement authorities to manage and address conflict.

Generational differences - young vs. old attitudes: The researcher found that traditional conflict resolution techniques are still valued by the Elders. However, the younger generations have exhibited a marked shift to conflict management based on litigation, punishment and restitution.

Conclusions

- Given high rates of crime, abuse and substance abuse in the North it is essential that strategies and justice initiatives be effective and meet the needs of the community to successfully break the cycle of violence. To do this, there must be an exploration of and an understanding of *what may or may not work*. Further, *why they may or may not work* is just as important to understand if a community desires to return to those methods. In other words, it is important to understand the factors that may account for the limited effectiveness and abandonment of traditional forms of conflict resolution in modern Inuit society so that they can be addressed and so that their impact can be minimized.

Connors, Joan F. "Resolving Disputes Locally in Rural Alaska", in *Mediation Quarterly* Volume 10, no. 4, Summer 1993.

This analysis, based on a much larger research project, outlines some of the factors that contributed to the success of three very different forms of community-based dispute resolution in Alaska. Although the environment is not the same as Nunavut and as a result many of the issues will be different, it highlights some of the initiatives going on, their characteristics and the

factors that have contributed to their success. This piece addresses lessons learned, the relationship with the mainstream criminal justice system, and issues surrounding community mobilization and/or power dynamics.

General Overview

This article summarizes the findings of the Alaska Judicial Council's evaluation of community-based dispute resolution models in Alaska. The project involved the evaluation of three community-based, culturally appropriate organizations in rural Alaska that provided alternative means to addressing conflict in their community. The purpose of the evaluation was to conduct a neutral review that would benefit the local organizations, the state, non-governmental agencies, and other community organizations.

There are over 100 Alaskan Native villages with active justice programs and initiatives in operation. This article compares three communities and their local, culturally relevant dispute resolution organizations: The Minto Tribal Court (representing Athabascan Native groups), the Sitka Tribal Court (representing the Tlingit communities) and PACT, a conciliation organization in Barrow (representing the whole community of Barrow).

A variety of methods were used by the researchers in stating their conclusions and making their recommendations. The evaluators had access to each of the organization's case files as well as data from the state court files. They also conducted interviews with decision-makers in each organization, volunteers associated with the organization, state court judges and others who had knowledge and a relationship with the organization. The research was an example of 'participatory research'. In other words, a final draft of the evaluation was reviewed by all of those who were interviewed for the study to check for accuracy and completeness in the description of the organization.

Underlying Themes/ Assumptions

- These initiatives are intended to benefit and meet the local justice needs of the community they serve.
- The author discusses the possibility of replicating these initiatives in other communities and draws conclusions about these organizations that can serve as a basis for similar community-based, local initiatives in other Northern areas. The author, however, recognizes that each initiative must be uniquely suited to the community it intends to serve.

Findings

Each initiative varied in a number of ways:

Variation in populations served by the initiative: For each initiative the 'community' and its interests were defined differently. For the Minto Tribal Court the community served is restricted geographically to those people who live in Minto. The Sitka Tribal Court's community is defined by tribal membership. For PACT the community served is all of Barrow, Alaska.

Variation in the types of cases they handle: While PACT handles civil actions' (simple civil matters) and community relationships and misunderstandings, the Minto and Sitka Tribal courts address local ordinances, criminal matters and family law matters.

Variation in dispute resolution form and style: Although each initiative had the same goal (resolving the dispute) the philosophy that guided them, and in turn the styles that each initiative adopted, was different. In other words, each of the organizations desired the resolution of disputes and conflict at the community level to take place in a particular way and this influenced the form that they adopted. In PACT the focus is on *conciliation* and the resolution of conflict within a neutral, panel process. They focus on the disagreement as opposed to the legal aspects of the case. As a result, their style is based on **mutual problem solving**, not upon the decision of one individual. On the other hand, the Minto Tribal Court focuses on the incorporation of **traditional Athabascan values** into its dispute resolution style. The Minto Tribal Court serves all the residents of Minto, described as a Native village, where the majority of the population is Athabascan Indian (97%). The Sitka Tribal Court on the other hand, applies traditional Tlingit law, written tribal law, as well as federal laws. It is seen as harmonizing federal and traditional Tlingit law in both its processes and decisions. The Sitka Tribal Court uses a judge to hear evidence, make decisions and generally preside over the court. Mostly however, he or she acts as a **mediator/negotiator** between the conflicting parties. Both Tribal Courts use the process of counseling the offenders about their roles and responsibilities within the community.

Variation in their reliance on state agencies: Each organization varies in terms of their interactions with and dependence upon state agencies. PACT has no direct interaction because of the fact that it handles extra-legal cases, cases that are not defined and regulated by a written statute. As a result they do not rely on the police or courts for support or referrals. The Tribal Courts on the other hand, because of the types of cases they deal with (criminal, civil and family), have interactions on a number of levels. Specifically, they rely on the police and courts for referrals and support.

The initiatives also had similarities:
Similarities: The three community-based organizations share many things in common. All three have the help of dedicated volunteers. The cases they address have the voluntary participation of all the parties involved. All three ensure confidentiality and record the proceedings to some extent. They all try to ensure the equality of the participants through the physical structure and the focus on consensus decision-making. Finally, they all exhibit some form of follow-up strategies.

Conclusions
Based on the evaluation of the three forms of community-based dispute resolution by the Alaska Judicial Council, the author argues that the following conditions play a large role in a developing a successful community-based initiative:

Reliance on volunteers: None of the initiatives/organizations had any outside funding. Each organization relied on the individuals who were strongly committed to the ideas, goals and values of the initiative. Although funding might help the organization, it seems that the dedication of those involved is more important.

Community support and acceptance: From the initial drafting of the goals of the organizatio to the decisions and sanctions imposed, each initiative has had the support of the communities t served. Community participation was integral to the development of the Tribal Court in Minto,

where every member of the village had the opportunity to assist in drafting the village ordinances that the court enforces. Further, communities are aware of the organizations and they use them.

State and governmental agency support and acceptance: Each of the organizations has a formal or informal relationship with the State. In these examples, the interactions with state agencies were beneficial and cooperative. The initiative requires a good working relationship with the outside, formal agencies if they are to have an effective referral system, one that both supplies enough referrals for the initiative to operate (issues of quantity) and that also refers cases that can be adequately addressed and resolved by the community (issues of quality).

Case selection/screening criteria: Each of the organizations has a clear understanding of the types of cases that they were able and willing to address. The criteria reflected their mandate, their dispute resolution style, the needs of the populations they served, and their own strengths and weaknesses. They seemed to understand their abilities and what they could accomplish.

Recognition of particular dispute resolution style adopted. Each organization believed strongly in the importance of resolving disputes in a particular way, and they recognized the importance of being aware of their own community-based dispute resolution style to achieve this. For these three organizations the styles were based on conciliation (PACT), tradition (Minto), and equal participation (Sitka).

Cultural cohesiveness: These organizations exhibited varying degree of cultural cohesiveness, but that did not seem to affect the success of the organization. What seemed more important was the high level of community support and commitment.

Crnkovich, Mary. ***The Role of the Victim in the Criminal Justice System – Circle Sentencing in Inuit Communities.*** **Paper prepared for the Canadian Institute for the Administration of Justice Conference in Banff, Alberta, 1995. Available from author and Pauktuutit.**

This is a companion to the other Crnkovich piece in this collection, where the author describes her observations regarding the first sentencing circle held in Nunavik. That article provided the background information, mechanics and format of the circle, as well as the impact on the victim as a non-participant. This piece explores the issues and concerns further, examining how such alternatives engage with and impact on Inuit communities and Inuit women victims of violence, extrapolating the issues and concerns about alternatives from the author's experiences and observations. It speaks to issues revolving around community dynamics and the Northern environment.

General Overview

This paper was presented to the Canadian Institute for the Administration of Justice Conference in 1995. In it, Crnkovich examines the problems associated with the practice of circle sentencing as an alternative, community-based justice system in Inuit communities. The paper is based on her shared experiences with Inuit women and her work on justice issues with Pauktuutit. Specifically, the discussion is based on her observations of the operation of a sentencing circle in Nunavik. In this paper she examines the issues and concerns that require serious attention before sentencing circles (and other alternatives) are adopted as a panacea for the problems associated

with the existing criminal justice system. She discusses the problematic issues that arise from using such terms as alternative dispute resolution , tradition and community-based initiatives , the role of power and power dynamics in the community, and the need for victims, especially female victims of violence and sexual assault, to have more support.

Underlying Themes

- The author holds that the goals and objectives of many alternatives are good, but the means advocated to achieve these goals may cause more conflict than they attempt to resolve.
- Many so-called community-based alternatives are grounded in erroneous assumptions about the role of tradition, about what community-based means, about the homogeneous nature of Inuit communities, and about how 'alternative' from the existing system these alternatives really are. These assumptions need to be challenged.
- It is only through Inuit-based justice systems that true, community-based justice will occur. In other words, the design and implementation must arise from Inuit communities, not from the formal system.

Findings

Inadequacy of the existing system: The existing system in the Northwest Territories, Northern Quebec and Labrador is inadequate. The ineffective and small police presence, the absence of lawyers, courtrooms, and legal aid services or victims advocates, coupled with the circuit court system have all contributed to the over-representation of Inuit in the criminal justice system and the high rates of incarceration.

Circle sentencing as a solution: Judge Barry Stuart introduced circle sentencing in the Yukon to address the failings of the criminal justice system. It is intended to address the over-representation of Inuit in correctional facilities. The objectives include encouraging active community involvement, focussing on rehabilitation and reconciliation as opposed to only punishment, a sharing of power between the formal system and the community, and the inclusion of traditional values into the process. Crnkovich notes that there is variance among communities regarding how the circle operates and that oftentimes guidelines are lacking.

Assumption #1: Alternatives, such as circles, are a process that is rooted in Inuit culture: The author holds that sentencing circles do not represent a traditional Inuit practice that is now being revived. Instead, these alternatives are a process and form that has been introduced into First Nations and Inuit Aboriginal communities by the formal judiciary. Traditional Inuit formal and informal social control mechanisms and dispute resolution tactics (grounded in non-interference and addressing the conflict in a way that would not create *more* conflict) took place in a physical environment that is very different than the one that exists now. These tactics and responses took place within very different social interactions, representing the hierarchies that existed in the community that guided their responses. Further, traditional Inuit communities had very different social disorders to address than those present today. As a result, the values underlying traditional Inuit culture would not be easily spotted or discovered in the alternative processes being proposed.

Assumption#2: Alternatives, such as sentencing circles, are community-based if the community is involved: Here, a distinction must be made between Inuit-based justice initiatives and community involvement in an alternative that is crafted by outsiders; a distinction that recognizes that community *participation* does not mean community *control*. Crnkovich holds that this distinction is not adequately addressed and as a result these alternatives are touted as a form and process that the community has developed. Instead, the community is simply involved in administering the goals and objectives of the larger formal system. She states: Real change reflective of the goals and aspirations of Inuit will come only when the community members define what the change will be and control that change .

Assumption#3: Inuit communities are homogenous and share interests: This assumption leads to (1) a belief that there exists in Inuit communities shared values, traditions and beliefs, (2) that every member has equal participation in the community and how it operates, and (3) that the victim and the community are, in effect, one and the same. These assumptions overlook power imbalances in the community and promote the myth that all participating will have equal access and opportunity within the circle. Crnkovich dispels each of these assumptions, holding that complex relationships exist in Inuit communities. Power dynamics and relationships within the community must be understood if circles are going to take place. Who the accused is within the community, who the victim is within the community, and whether the community feels that it can freely participate are issues that need to be addressed, as they directly impact on the sanctions and sentences that a community may recommend. If they are not examined that decision will often ignore the needs of the victim(s).

Assumption#4: Sentencing circles as an alternative to the formal system: The author holds that it must be understood that the sentencing circle is an alternative to the sentencing hearing only. In many respects it relies on the existing system to operate and as a result it is questionable to what extent the initiatives represent an alternative processes.

Critical decisions and the abuse of power: The author holds that the operation of sentencing circles demands that a number of critical decisions be made; decisions about which case, if any, goes to the circle, what the factors are for this determination, how the circle is conducted, who participates, the role of the accused and the role and level of participation of the victim(s). Care must be taken to ensure that the power to make these critical decisions are not transferred to the community in a way that results in an abuse of that power (i.e. by allowing a select few or an individual to make them at the expense of the community).

Conclusions

Exclusion of domestic violence and sexual assault: Sentencing circles, as they have operated, are completely ineffective for Inuit women victims of violence. The limitations of alternatives (i.e. how they may operate to further victimize the victims of violence and sexual assault and how they may not ensure that the offender is held accountable) suggest to the author that these cases should not be dealt with by the (alternative) sentencing circle. The result of not being adequately protected by the circle, an often used alternative, will mean that even *fewer* women will be reporting the violence they are subjected to. A greater awareness of domestic violence, a recognition of the power dynamics within the community so that the victim can fully participate, and adequate support for the victim are pre-requisites to having community-level alternatives address these types of cases.

Vital role of an infrastructure to support community-level alternatives: Safeguards and infrastructural supports must be a part of alternatives to protect the needs and interests of the victim: Alternatives are not welcome in communities if the necessary infrastructure, support services, and resources needed for these alternatives to operate are not also provided (Pauktuutit). Such things needed include public legal education on alternatives (its goals, objectives, form and process), paid administration to operate the alternative approach, support and advocacy workers for women and children who are victims of violence, male batterer counselling programs, social worker and addiction counsellors. Without these services and supports, the credibility and accessibility of any alternative is called into question.

Problematic nature of relying on volunteers: The author holds that alternatives must not rely upon volunteers for a number of reasons. Depending upon volunteers makes the alternative vulnerable and its future always unreliable. If (only) volunteers are relied upon, there will be a high level of variance between levels of service between communities in the North. This is unacceptable and as a result, the community should have paid community service workers.

A coordinated and comprehensive approach is necessary: Making change at the level of criminal justice system is certainly an important area that requires attention: making the justice system more responsive to the needs of the community is one part of a coordinated approach. However, it is not, on its own, a panacea to the problems that Inuit communities experience vis-a-vis justice.

The community needs to be defined: The term community needs to be defined by the community members in a way that neither excludes relevant parties within the community nor those individuals and organizations that, although not physically located within the community, can provide support.

Community-based needs to be understood and defined: The difference between community involvement in a process that was developed and designed outside of the community must be distinguished from the development of Inuit-based justice initiatives and models that represent that particular communities' goals and objectives.

Establishment of guidelines for (alternative) sentencing circle: Guidelines about how circles will operate as well as by whom must be established. Questions about case selection (which cases will or will not be addressed in a circle and how will that decision be made?), protections from abuses of power (how will it be ensured that the power to make these decisions is not being abused?), require serious attention and standards must be developed. While this may appear rigid, it in fact is not, since it is the community that establishes the guidelines.

Power relationships and dynamics: The intricate links and networks that give rise to power dynamics in Inuit communities must not be allowed to play out in alternative justice initiatives. The author suggests that this problem may be adequately addressed by establishing an effective selection process, one that incorporates the power dynamics when determining who will participate in the initiative.

Crnkovich, Mary. "A Sentencing Circle", in *Journal of Legal Pluralism and Folk Law*, 36, 1996.

This analysis addresses the problems associated with Sentencing Circles, as one of the justice initiatives that Northern communities may adopt, and advances considerations that must be included in developing and implementing them if those problems are to be adequately dealt with. This piece addresses the relationship with the mainstream criminal justice system and issues surrounding community mobilization and/or power dynamics.

General

This is a paper based on the Crnkovich's observations of the first sentencing circle held in the Nunavik region of Quebec.

Overview

Sentencing circles, started in the Yukon Territory, are described as a community-based justice initiative. They are intended to address the limitations of the circuit court system of justice through incorporating the interests and needs of the community in the administration and delivery of justice. The Inuit Task Force on Justice suggested that such initiatives be utilized in the Nunavik region in order to involve the community and more adequately respond to and address the justice needs of the victim, offender and community. Responding to this, the judge in this particular case ordered a sentencing circle to take place. This was a case where the accused was charged with (and pleaded guilty to) assaulting his wife. This was the accused s fourth conviction and the accused was on probation when the last assault took place. Crnkovich discusses her observations of the process, focussing on the limitations of sentencing circles, specifically as they relate to female victims of violence. She goes on to outline possible safeguards that can be incorporated into Circles to protect Inuit women who are victims of violence.

Themes

- Circuit courts do not meet the justice needs of the Northern communities.
- Sentencing Circles, as a response, may alleviate some of the problems caused by circuit courts. However, there are certain issues that must be addressed before they are implemented.

Findings

Lack of organization: The event was not organized properly and took place in a haphazard fashion. The Mayor, Judge and Mativik (Nunavik Inuit organization) were under the impression that the others would be organizing the location, informing the community and setting the agenda. As a result, the Circle was unsuccessfully organized and it is observed that while a circle may be in the best interests of the community, if it is not properly organized, it can be of little benefit to anyone (164).

Objectives of the circle not defined for the community: The judge gave no substantial guidance to the community members present to help them understand the role or objectives of the sentencing circle. As a result the community was unaware of how the circle was to operate, why it was chosen instead of a regular court hearing, what their options were in terms of recommendations to the judge, the role that Inuit traditions were expected to play, or what the law considered an

appropriate sentence for domestic violence. Further, the role of a sentence, its function as a sanction was not discussed or described to the community.

The roles of participants were confused: The author, in her conversations with the victim, found that she was confused about whether she had to be there and what her role was. The judge added to the confusion by stating that although everyone was equal in the circle, he was not obliged to take their advice. These mixed messages and resulting cynicism may lead to less community participation and motivation.

Language: The issue of interpretation and translation. Although the circle began with a translator who translated the exchanges, partway through another individual took over. He was less diligent, and instead of interpreting and translating, he summarized and gave editorialized versions of the discussion. As a result, unilingual members of the circle were excluded from a full understanding of the exchanges.

Subject matter: The author found that the circle was dominated by an 'offender-focus'. In other words, the discussion was all about helping the offender. While that is important, the author notes that there was no discussion about the harm suffered by the victim, children and family because of his actions. The author also noticed a shift in the discussion from the abuse being his problem to a discussion of their problem (the wife and husband). This implies a shift in blame and responsibility that involves the victim, something that may be inappropriate.

Power dynamics: The author noted that the circle failed to incorporate an understanding of the power dynamics that exist in abusive relationships, specifically between a man and a woman, wife and husband. In the circle that was observed, the victim did not speak in the circle, the sentence represented the plan submitted to the circle by the husband and the court suggested that the wife attend counseling with the husband. These results make it clear that the power dynamics that occur in abusive relationships were not accounted for by the Circle and the judge.

Lack of community involvement: Because there was no information offered to the community about Sentencing Circles and its goals and there was no care taken to include a representation of the community, the community was unable to fully prepare for and participate in the circle. There was no opportunity for the community to design the circle or offer input into its operation that may better reflect their cultural traditions and needs. The Judge assumed a sentencing circle was the best way to include the community and its cultural traditions in corrections, a decision that should have been made by the community.

Conclusions

The author concludes the following:

- It is essential that the community be involved in planning, developing and implementing new alternatives. If it is not, the goals of the initiative will not be met.
- It is essential that the impact of the crime on victims be included in any alternative or community-based initiative such as a sentencing circle. The interests of the victim(s) have to be represented and the forum must be conducive to victim participation.
- Generally speaking, female victims of violence have special needs and concerns. This is especially true in small, isolated Northern communities. The physical presence of an attacker, combined with a lack adequate protection for victims of violence because

they have fewer police forces generally and detachments may be hours away, are issues that must be addressed in the development of community-based initiatives. Also, where there exists strong support for community-based justice, a process that shifts the focus onto the offender, the needs of the victim without special attention, may not be adequately incorporated into the analysis.

- Community-based corrections or alternatives, and justice initiatives generally, must be planned and developed carefully, not thrown together in a haphazard fashion with no regard to the impact that the form, process and outcome of corrections has on communities, victims and offenders.

Recommendations

Safeguards must be incorporated into sentencing circles (and other initiatives) to protect Inuit women who are victims of violence:

- The community must be involved in the development, organization and implementation of a Sentencing Circle. The community must control case screening and offence threshold (the issues/harms that a Sentencing Circle will address). As well, the organization of the Circle, as well as the decision about who sits in a Circle, must come from the community. Finally, the community must be informed about the dynamics of power so they can understand them when they occur in the Circle, as well as how they affect the issues in the Circle.
- If Circles are to deal with wife assault or sexual assault the impact of the act on the victim as well as the interests of the victim must be represented in the Circle.
- The tension between healing the offender and protecting the community' as very different goals of community-based justice initiatives (such as Sentencing Circles) must be adequately addressed by the community.
- There must also be attention paid to the fact that victims need healing too. The focus should not be only on the offender.
- There must be a realization that such cases as sexual assault and domestic violence are not representative of a *shared problem* by the wife and husband. Counseling together may not always be a good idea.
- Community-based initiatives in the North must recognize that there exists the potential for discrimination when traditional Inuit customs are incorporated into a community-based justice initiative. This may be the result of modernization and the displacement of many traditional cultural practices. To truly meet the justice needs of the community and have the support of the community, this possibility must be addressed.

Department of Justice. *Options for Court Structures in Nunavutt.* Ottawa: Department of Justice, 1997.

This document highlights the relationship with the mainstream justice system as well as the Northern environment.

General Overview

This is a discussion paper. It does not propose particular answers. Instead, it is intended to encourage dialogue about the issues involved. It gives an overview of the different court

structures that can be established in Nunavut after the division of the Northwest Territories and the creation of the Nunavut Territory. The two main options available are the establishment of a Territorial court structure (representing the status quo with a Territorial Court, Supreme Court, Court of Appeal and Justices of the Peace) or a single-level trial court (a court with a single class of judges responsible for hearing all the cases at the trial level, replacing Territorial and Supreme Courts). The author discusses the merits of each as they address the specific Nunavut context and needs.

Through the discussion a number of important issues facing justice in the North, especially justice issues for Nunavut policy-makers to consider, are highlighted.

Underlying Themes and Assumptions

- The geographic and demographic realities of Nunavut bear directly on all structure designs.
- An interface between the Nunavut court structure and the larger Canadian criminal justice system and Constitution will exist and that relationship must be examined and incorporated into the discussion.
- There are conflicting views regarding the role of the larger, formal criminal justice system in relation to the more local systems that may develop. While the current system is seen as foreign to Inuit culture and traditions, aggravating divisions in the community, others are of the opinion that the disempowered groups in the community need the larger system to protect their interests.

Findings

Limitations of the Territorial Court: As a result of the vast geography and dispersed population in the North, the Territorial Court operates as a Circuit Court. Inherent in that system is a number of limitations. Specifically, there are huge delays in addressing crime and Courts are not based in the communities they serve.

Territorial Court or Single Level Trial Court? The author holds that there exists no hard data on which system is better and this discussion paper does not conclude strongly in favour of one or another. Rather, it sets up the issues for determining the structure.

Expanded role of the Justices of the Peace: The expansion of the roles and responsibilities of the Justices of the Peace (in criminal, civil, family and youth courts) is discussed as a way of addressing the limitations of a one-tier system and lessening the problems associated with circuit courts. Expanding the roles of JPs would address the delay in having the matter addressed. Delays are damaging to both the victim and the accused. The victims in small Northern communities may be in a dangerous situation when faced with a delay, while the accused is put in a unjust position by having the charge 'hanging over' him or her until the circuit court comes. The time lapse creates a feeling of being subjected to an irrelevant justice process. Expanding the role of the JP also results in greater community involvement because the JPs are residents of the community they will serve. However, the author points out that there exists a danger in enlarging the role of the JP: the existing inequalities in the community may be reinforced through the justice system. The author concludes that a possible way to address this is to have JP panels, instead of individuals.

Geographic and demographic realities of Nunavut and their implications: The demographics of Nunavut pose a unique challenge to a justice system. It must address the fact that 84% of the population is Inuit, more than half are under the age of eighteen, 20% (in 1991) spoke only Inuktitut, and it is made up of small, dispersed communities spread over a quarter of Canada s land mass. In such an environment, access to justice can be a problem as information is difficult to obtain and there are few lawyers.

Criminal activity in Nunavut: In 1996 the Northwest Territories had seven times the national average rate of *reported* sexual assault and over five times the national average rate of *reported* assaults. An understanding of and a plan of action to address the level and type of criminal activity in the region of Nunavut must be incorporated into any justice system.

Interface between Nunavut justice system and Canadian justice system: A relationship will continue to exist in a number of ways. The Nunavut justice system must be consistent with protections guaranteed to accused persons in the *Charter of Rights and Freedoms*. As well, there are constitutional limits on the degree to which a court system in Nunavut can be modified to reflect traditional Inuit responses to crime.

Conclusions

The discussion paper holds that given the demographic and physical reality of Nunavut, there are specific goals and considerations that must be incorporated into any discussion of justice delivery and administration:

- The system of justice or court structure must be able to provide accessible, timely and streamlined service to the people living in the remote, small communities that will make up Nunavut
- The system must be accessible and understandable to all Inuit people.
- The system must ensure equal benefit and protection of the law to all persons.
- The system must provide adequate accountability for decisions made.
- The system must address the needs of the victim, offender, and all parties involved (community).
- The system must respond to the geographic remoteness of many of the communities, offenders and victims from courts and court services.
- The system must recognize and respond effectively to the problems of domestic violence.
- The system must develop links with other agencies to coordinate responses and make best use of limited resources.
- The system must only remove offenders (especially young offenders) from the community where truly necessary.
- The system must enhance community involvement and confidence in the justice system.
- The system must be flexible to meet the needs of particular communities; encouraging innovation in resolving disputes and in sanctioning actions.

Department of Justice. *Inuit Visions of Justice: An Analysis of Inuit Testimony Given to the Royal Commission on Aboriginal Peoples* . Ottawa: Department of Justice, 1997.

This report highlights the Northern environment, the relationship with the mainstream criminal justice system, and issues surrounding community mobilization and/or power dynamics.

General Overview

This report gives an overview of the major justice issues and themes that came out of the Inuit testimony to the Royal Commission on Aboriginal Peoples. The focus of the testimony was not on specific programs or how the needs of Inuit communities can be specifically met, but rather represented a broad call for action and change.

For this report, the author searched the testimony given by Inuit communities and organizations to the RCAP, as they were recorded on a CD-ROM of RCAP documents. Special focus was given to the testimony that came out of Cambridge Bay, Rankin Inlet, Pangnirtung and Iqaluit, NWT. Search techniques then depended upon location, term ("justice") and testimony by identified Inuit individuals and organizations.

Major Themes in the Testimony

- The author holds that none of this information is new to those who work on justice delivery and administration in and for the North. These voices indicate that it is now time to move beyond discussion. Federal and Territorial governments must take what is known and apply it to concrete policy development and design.
- Little of the discussion focused on specific programs and services. Instead the focus was on considering traditional Inuit approaches to justice and Inuit visions for justice delivery and administration in the future.
- A relevant and responsive justice system for Inuit communities requires a re-conceptualization of how services and programs are designed for and delivered in the North. A fundamental shift in thinking must occur, a move away from simply applying Southern ideas, values and 'solutions' to Northern problems.
- Community control and involvement is necessary through all aspects of justice delivery and administration, from design to implementation.
- Governments must work with communities to identify and develop alternative approaches to justice that has meaning for Inuit communities and meets their needs. This may represent a significant departure from the formal system.
- When speaking of the Northern experience and the needs of Northern communities to effectively respond to crime, health, education, social services, and justice it is important to not view these as separate areas. Instead, they are very much related. An infrastructure must be established to represent the links that will (ideally) be set up between these different agencies.

Findings from the Testimony

Lack of Inuit culture and tradition represented in the Euro-Canadian system – addressing it and overcoming it: The form and process imposed upon Inuit peoples is foreign. Consequently, the formal system cannot deal with local or cultural issues while at the same time, the formal system's responses are seen as inappropriate to the Inuit community. This may result in less Inuit use of the formal system in order to protect their rights. The testimony suggests a number of ways

to overcome this: give more control over programs and services to Inuit communities, allow for community control over summary (less serious) offences, make courts more accessible to Inuit, and rely more on Elders and their resources.

The need to provide alternatives for Inuit youth: Since crime is part of a larger cycle, emphasis should be placed on breaking that cycle and preventing crime. As a result, there is a strong need to attend to the needs of youth and address boredom and idleness. The testimony suggests that this can be done through employment, recreation and encouraging greater contact between youth and Elders. The past and present must be linked in the community.

The need for alternative approaches to corrections and rehabilitation: The testimony speaks to the idea that crimes and disputes are the result of larger social problems, and as a result focussing on corrections and punishment are not appropriate. Doing so does not deal with the underlying problems that brought that individual to the crime in the first place. It is suggested by the testimony that there must be a greater emphasis put on counseling and healing the offender and enlarging the role of Elders in decision-making regarding offenders in the community. In other words, a shift in focus must be developed.

Need to educate for change – the role of education: A long term approach has to be developed, one that addresses and supports making funds available for post-secondary education as well as for assisting Inuit youth set goals to encourage them to achieve all they can.

Conclusion
These findings and testimonials represent a starting point for the development of community-based justice and the development of appropriate policies and programs. It is now time to not only listen to and incorporate the ideas and experience of the community, but to recognize that something must be done.

Dorais, Louis-Jacques. "Language, Culture and Identity: Some Inuit Examples", in *Canadian Journal of Native Studies* (1995) 15 (2).

The role of language is vital to any culture, as it forms the basis for how events are perceived and interpreted by a group of people. It transmits information in a particular way, a way that only those who understand the language are able to fully comprehend. In Inuktitut, like all languages, there are implications and nuances. Inuktitut is a vital part of Northern life and culture. Any community-level reform, especially those in the area of justice, must address the role of language and incorporate it into the mechanics of delivery. This piece highlights the Northern environment.

General Overview
This paper explores the Inuit attitudes and practices toward language and its relationship to knowledge and culture in two Inuit communities. As it is indicated in many other pieces in this collection, Inuktitut plays a large role in Inuit communities. In some communities within Nunavut, 20% of the population speak neither English nor French and only Inuktitut. In this article the author examines the role and use of Inuktitut in Nunavut and Nunavik. There are important implications for justice that flow from his findings. Because language plays a crucial

role within contemporary Inuit culture, Inuktitut must be incorporated into the development and implementation of Inuit justice systems, if those systems are intended to represent the needs of the community.

These conclusions and findings are based on research conducted between 1990-1993 in Igloolik (Nunavut) and Quaqtaq (Nunavik). The main source of information was in- depth interviews with residents of small, wage-economy communities. Most bilingual interviewees were born after 1950.

Themes/Assumptions

- Language plays a crucial role in many Inuit communities and Inuktitut is still very much in use. In 1991 it was the mother tongue of more than 85% of the Aboriginal populations of Nunavut and Nunavik.

Findings

Bilingualism (English and Inuktitut) is related to formal schooling. Southern-style education introduced and reinforced the usage of English within the community.

English and Inuktitut perform different functions in the community and hold different positions within the community. Inuktitut is considered important as a symbol of Inuit identity. It is seen as the principal conveyor of Native culture, as a tool to communicate with Elders, and as the preferred way to express one's inner feelings. *It is the language of identity.* English is important because it is the way to learn new things in order to not be 'left out' It is seen as a necessary and useful tool, one that is required to compete in the modern world. *It is the language of practicality.*

The use of Inuktitut needs to be expanded and protected. Inuktitut is indispensable to Northern Inuit peoples. It is intimately linked to and is seen as playing an important role in self-definition. However, for Inuktitut to regain its social power, the author concludes, it must be seen as the language of both *identity and practicality.* Inuit organizations and 'elites' have not given language the proper consideration. While it plays an important role at the community level, there must be a concerted effort by the national Inuit organizations to increase the visibility and use of Inuktitut at regional and national levels.

Conclusions

Inuktitut is used and valued. It is a method of general communication, and a symbol of identity. In other words it has practical and symbolic importance. This has implications for the development of justice systems and personnel. A justice system, developed to address the needs of the Inuit in Nunavut, must be aware of the practical needs (the fact that 20% of many communities only speak Inuktitut requires special services to be readily available and easily accessible) and the symbolic role (conveying meaning to events through a Inuit lens of experience). The role of language is vital to identity and without active and useful presence of the language, that identity could erode.

The intrusion of southern culture and values is clearly dangerous to Inuit culture and identity. Through preserving and perpetuating Inuktitut a strong link to culture is preserved.

Evans, John, Robert Hann and Joan Nuffield. *Crime and Corrections in the Northwest Territories.* Government of the Northwest Territories, 1998.

This comprehensive report examines social problems, crime and justice issues in the North as well as the dynamics between community justice and mainstream justice. This report clearly articulates the state of crime in the Northwest Territories, specifically in the Eastern region (Nunavut). Having this information, knowing the conditions and the state of affairs is vital for putting together an effective strategy in crime prevention and addressing the specific justice issues that exist in the North. It also addresses the community level response to enlarging community-based corrections and community responsibility in the area of corrections, thereby addressing the issues that must be addressed before true community-based initiatives can be successful. Further, it illuminates the interconnected nature of Northern justice issues. Finally, the report highlights the importance of adequate preventative measures and the role of programming in ending the cycle of abuse/crime. As a whole, the report speaks to the Northern environment, the relationship that may be developed with the mainstream justice system, and the dynamics of community mobilization and power dynamics.

General Overview

This study was undertaken for the Minister of Justice and the Minister of Health and Services Government of Northwest Territories. It represents a review of the correctional system of the Northwest Territories, the trends in crime and criminal justice, the implications and desirability of enlarging community corrections, and the challenges facing institutions in meeting the needs and assessing the risks of offenders. The terms of reference for the study also included examining how corrections might be organized and delivered following the division of the Territory to create Nunavut.

The methodology included the use of raw data, interviews (with community members and justice officials) and past research. The interviews represented the views of 14 communities (out of over 60) that were chosen by the Ministry.

Underlying Themes

- Although this report was focused on *corrections* in the Northwest Territories, which implies an 'after the fact' locus for attention, the report spoke about the need to *prevent* criminal activity and addressed the integral role of prevention in rehabilitation strategies, both institutionally and at the community level.
- The interrelated nature of criminal activity must be incorporated into any discussion or strategy to address crime and corrections in the Northwest Territories. Social and economic status, family relations and personal relationships can be criminogenic factors and as a result they must be examined.
- The majority of the offenders in Territorial institutions are there as a result of committing violent crimes or sexual assault. Although the researchers spoke about victim services, generally, the report does not adequately address the needs of women in the Northwest Territories. The impact that such crimes and acts have on the relations between men and women and the needs of women in the small, isolated communities were not adequately explored.
- The goal is to hand justice administration and delivery over to the communities when they are ready for it. Although many communities are not presently ready to take on

responsibility for community-based justice and corrections, with effort, time and resources they will be.

- Although the communities they interviewed were very different in terms of geography, size, level of isolation, and impact of social and economic problems, a number of shared concerns (between communities) were identified regarding the problems associated with community-based justice delivery and administration at present.
- It is important to remember that a significant amount of crime, up to 40%, goes unreported.

Major Findings and Conclusions

The current environment of corrections in the Northwest Territories is in serious need of attention: The prisons are overcrowded. In 1996/1997 they were operating at 43% over capacity. Further, they found that the Northwest Territories has the highest incarceration rate of all provinces and territories (representing three times the Canadian average) and the majority of those incarcerated are there as a result of committing violent crimes.

Growing 'crime-prone' population: The general population of the Northwest Territories is growing steadily and faster than other parts of the country. The birth rate is twice the national average. The researchers predict a growing crime-prone population in both the Eastern and Western regions (between the ages of 12-24). This implies that if criminogenic factors are not addressed and prevention strategies are not developed the situation in the Northwest Territories in regards to crime and corrections will be aggravated.

The unique characteristics of offenders in the North: Offenders in the Northwest Territories have specific risks and needs that require more relevant approaches and strategies to be adopted in corrections. The high prevalence of criminogenic factors such as unemployment, low educational levels, substance and solvent abuse, previous convictions, dysfunctional family life, early exposure to violence, poverty, and despair present significant challenges for corrections in the North. These conditions demand that more effective strategies are developed.

The geography of the Northwest Territories: The geography of the North (like the characteristics of the Northern offender) requires that unique approaches be taken. The researchers point out that what is considered a standard approach in the South, will not work in the North where communities, generally small, are dispersed over a vast geographic area. This geography requires a specific strategy. Limited resources – both human and financial - are also a reality in the North and that must be incorporated into any initiatives that are developed.

Use of police in Northern communities: The researchers noted that it is a significant event when officials are called in. Once the police are called into the community to address an offence or an offender, the community members often feel that they have exhausted all of their resources and it can no longer protect itself from the offender.

Communities and community-based corrections: Communities are not prepared to take on more responsibilities regarding community-based corrections. They have neither the resources nor in many cases the commitment or strength to assume more responsibility for these offenders. Communities are in varying degrees of preparedness and ability to address justice in a

community-based fashion. The researchers found that many community members see the devolution as a situation of 'off-loading' the problem onto the community without giving them the adequate resources to do the job.

Failure of the current community-based corrections system: Researchers found that to many communities, the current community-based corrections system is not working. Community residents and local officials indicated that paperwork monopolizes the agencies and agents time, aftercare (for the offender when they come back to the community), a vital component to corrections and rehabilitation is virtually absent, and the roles between social worker and probation officer are often dangerously blurred. Further, probation is seen as a joke, with set conditions that often go unfulfilled lacking any adequate level of accountability.

Importance of victim services in the communities: A discussion of corrections cannot take place without incorporating the victim into the equation. Similarly an effective strategy must not only support the victim in publicly denouncing the crime and demanding that it be addressed, but also in their journey through corrections. Without such services many victims may not pursue the matter and as a result they will suffer the financial costs (property offences) and spiritual and human costs (violence and sexual assault) without any assistance. In small, isolated communities, where support for the victim is lacking and/or there is an opinion that family violence is accepted as a part of life (as is the case in some communities of the North) these services assist the victims many ways. Researchers also found that in many of the communities the focus was on the offender, while the victim was not given the attention they required. For these reasons, victim services are very important to these communities and they must be given adequate support in developing them.

Major Recommendations

To address the particular needs and risks of Northern offenders, and facilitate community-based corrections and community-based justice, a strategy must be developed to make changes at both the institutional and community level:

Institutional Level Reform: Over-crowding has made effective programming almost impossible. The particular needs and risks of Northern offenders must be assessed to ensure that they are in proper facilities and **core programming** (based on social learning theory) should be developed. Such programming should be broad-based, address criminogenic needs and be developed and implemented in a culturally appropriate fashion, grounded in Inuit culture. Aboriginal Healing Programs, programs focussed on family violence, sexual offending, alcohol and drug treatment, mental health programs and employment programs are all vital. None of these programs should be incorporated at the expense of the others. Such programs acknowledge the need to address the problems that brought the individual to the criminal justice system, (the factors associated with recidivism) and attempt to prevent the reoccurrence of offending by teaching new skills and behaviours.

Community Level Reform: Strategies must be developed to address the low level of community tolerance, readiness and ability to assume more responsibility for handling offenders in the community. The strategy the researchers propose is a multi-faceted approach that puts **community development at the foreground**. Before community-based justice systems can become more effective a number of pre-conditions must be in place. The researchers conclude

that much community development and healing is required. Communities need to gather strength and develop a strategic plan for healing the community to effectively assist in healing others. This requires not only the input of the members of the community, but also a significant level of desire and commitment within the community to take on the challenge. It requires that effective training for those who will be community-based justice agents be available. It requires effective drug and alcohol programs in the community and aftercare for the offender to follow-up with after the prison programs. It also requires that victim services be developed. At this level, justice issues and healing are often part of the same process.

Conclusions

Communities need to work at their own pace in developing and administering community-based justice initiatives. Communities differ in their ability to adequately address community corrections and as a result no standard approach or timetable will work for them all.

The problems associated with how community corrections are now operated need to be addressed. To address the criticisms regarding how they are presently being operated, the researchers make a number of recommendations. Specifically, that more resources be placed in the community for correctional operations, more training be offered to those in the community who perform correction functions, and more effective and responsive victim services need to be created.

Any future efforts to have communities take on more community-based responsibility should be evaluated for their impact on victims, offender, communities, and the justice system. The programs should not be haphazard or unexamined; community-based corrections and justice initiatives are a learning process and the successes and failures have to be noted and learned from.

Victim services must be developed. A significant investment must be made in services to victims and their families. Support for victims is almost absent.

Working with the family is essential. The large number of cases that involve sexual assault and spousal assault require addressing the needs and cycles that exist within the family. The researchers conclude that without effective programs the cycle of violence continues.

A strategic and operational plan must be developed to respond to the expected increases in prison populations in the Northwest Territories and especially Nunavut. The uneven distribution of inmates between the facilities in the Eastern and Western regions indicates that facilities in Nunavut are not able to accommodate the inmates who are from Nunavut.

Fiddler, Jonas and Josias Fiddler. "Current Initiatives on the Sandy Lake Reserve, Ontario", in *Self-Sufficiency in Northern Justice Issues* Burnaby: Northern Justice Society, Simon Fraser University, 1992.

This article highlights an initiative that is taking place in Sandy Lake, a Northern Ontario reserve. While it does not speak to the specific issues that are relevant to the North and Inuit communities, particularly in Nunavut, it illuminates some of the First Nation justice initiatives

that are taking place at the community level, and discusses how one initiative is attempting to meet their community's justice needs. Lessons learned are the focus, as well as the relationship that may be developed with the mainstream justice system, and the dynamics of community mobilization and power dynamics.

General Overview

This article is a part of a larger collection that addresses the potential for criminal justice self-sufficiency in the North and some of the strategies that communities can use to facilitate it. The participants are often front-line community workers and through their dialogue and commentaries some of the important issues on the topic are uncovered. The discussion is led by a resource person(s) and the information they provide is often not scripted, but spontaneous discussion and sharing of experiences.

Sandy Lake reserve is a First Nation community located in Northern Ontario. Like many Northern communities it is relatively isolated and has had to address the problems associated with circuit court justice and fly-in courts. In response to the foreign goals and ineffective processes of the formal criminal justice system the community in Sandy Lake developed an Elders Council to address justice and anti-social behaviour. The Elders Council is made up of two men and women. They are recommended by the community and selected by the Band Council. This discussion examines the issues that the Sandy Lake Reserve has identified in the development of their community-based justice structures (Elders Council) and programs (peace officers). However, while the discussion clearly articulates the role and structure of the Sandy Lake Reserve Initiative, and how it tries to meet the needs of the offender it does not give adequate attention to the needs of the victim(s) of crime. We are left to wonder how victims are supported, who in the community identifies their needs, and how it is ensured that those needs are met.

Underlying Themes from the Dialogue

- Justice must be suited to the social and cultural aspirations of the community it serves.
- In small, isolated communities it is not possible to separate one social problem from another. Solutions must be as coordinated and inter-related as the causes of anti-social activities themselves.
- The Elders Council blends the customary and mainstream forms of justice.

Findings

Failure of the mainstream criminal justice system: The participants held that jail isolates and perpetuates criminal behaviour. It further divides the individual from the community, especially in Northern areas. The participants held that in community-based initiatives, shame and responsibility are incorporated in a more effective manner. As a result community-based programs do a better job of reintegrating and rehabilitating the offender.

Community involvement: Everyone in the community should be made to feel that they have a stake in the process and should be involved in addressing the anti-social behaviour.

Role of the Elders on the council: The roles of the Elders include mediating and counseling all those involved in the act or harm caused: the offender, the victim and their families. Before and after court Elders are available to the widest circle possible.

Effect of the program: As a result of the efforts of the Elders Council and the peace officers in the community, there have been fewer repeat offenders in Sandy Lake. The participants are quick to point out that there have not necessarily been fewer *offences*, but fewer *repeat* offenders. Similarly, fewer cases make it to the formal courts. Instead they are addressed by the Elders Council or Band Council.

Addressing the role of alcohol and acting on the problem: Alcohol is a large problem in many small, isolated communities, such as Sandy Lake. The participants hold that a community-based justice initiative must be developed with a strategy for effectively addressing alcohol abuse. Sandy Lake is a dry community. To ensure that alcohol was not brought into the community Sandy Lake Council set up roadblocks and gave their peace officers the authority to search the baggage of those people coming into the community. They found that many community-members gave the bottles of liquor to the peace officers because they respected the wishes of the community.

The blending of traditional values with modern realities: The Elders Council is an initiative that neither completely relies on a traditional form of doing justice, nor a mainstream approach. They conclude that many traditional customs are not completely incorporated into Sandy Lake's initiative because many of the traditional ways of resolving disputes or dispensing justice are not effective. At the same time the initiative does not mirror the conventional, formal mainstream criminal justice system since the focus of the initiative is not on punishing and laying blame, but on accepting, taking responsibility and helping the offender. They conclude that the important aspect of the initiative is that it is community-based; it is a justice system that is welcomed and understood by the community.

The role of the mainstream system: The mainstream system acts as a 'safety valve' for the community-based initiative by supplying its coercive nature when such force is necessary for the good and safety of the community. Also, Elders do not get involved in really serious issues like rape and murder.

Role of the victim in the community-based initiative: In this account there is no adequate mention or analysis about the role of the victim and their satisfaction with the initiative.

Finkler, Harold. "Community Participation in Socio-Legal Control: The Northern Context", in *Canadian Journal of Criminology* 34 (1992) 3/4.

This article highlights the importance of distinguishing between community-level initiatives and community-based initiatives. Many initiatives that are presently being developed and initiated are taking place at the level of the community, however they are not community-based. That is, they are neither grounded in nor developing out of the needs and values of the community. This piece illuminates issues surrounding community mobilization and the Northern environment.

General Overview

The introduction and primary role played by Euro-Canadian institutions in the North has impacted on Northern Inuit communities in a number of ways. The intrusion and ensuing dependency can be linked to the limited involvement and abilities of the community in socio-legal control. The efforts at community participation and involvement are examined in this paper and the researcher holds that these past initiatives are insufficient. This work is based on findings that arose from the researchers socio-legal fieldwork in the North.

Underlying Themes

- The effects of modernization on traditional socio-legal controls in the North must be fully understood and incorporated into long-term plans to develop community-based programs.
- The researcher holds that many of the current initiatives and programs, although they increase community involvement, do not represent community control. This is the result of operating within a framework (the formal criminal justice system) that does not represent their needs and excludes any real local, community participation.

Findings

A traditional framework for social control existed in the North: There was a system in place that prevented and addressed anti-social acts. It also provided socio-legal control of the community by the community.

Formal agencies and the displacement of community control: Since the Second World War there has been an enormous growth in formal state agencies in the North. The presence and power of these state agencies, which represented medical, legal, education and political agencies, had numerous implications. They eroded primary group relations, family solidarity, parental authority, traditional male/female roles, and close ties between generations. They are also responsible for the emergence of a changing value system - one grounded in Southern values. There has been an increased growth in the level of dependency upon these Southern institutions by Northern communities. In effect, they displaced the pivotal roles that the community played in socio-legal control. This displacement is linked to the rise in alcohol abuse and crime in Northern communities and the inability of traditional mechanisms to operate effectively to address them.

Indigenization as an ineffective solution: Indigenization has been the way that community involvement has been incorporated into socio-legal control. In other words, justice initiatives and community involvement have taken place in a framework that incorporates Inuit *people* into the existing system, not Inuit values and methods. Finkler looks at some examples of how community involvement in socio-legal control has been grounded in the existing system and how, although these initiatives are successful in meeting the immediate needs of the community, they do not represent an example of *real* Inuit community control and direction. Instead, they are a creative use of the existing system. For example, the author discusses alcohol control in communities and how communities have used the legal restraints that are available, such as by-laws, to address the problem. He also discussed youth justice committees, seen as solutions of the community to divert youths from the criminal justice system, as an approach that is legislated in the *Young Offender's Act*. These examples are not being criticized, but rather they are

explored as ways that justice initiatives in the North are being developed in a Southern framework, one provided by the mainstream system,

Conclusions

Indigenization as the route for community involvement in the North is problematic: These initiatives are important and have been successful, but they do not challenge the framework that created the conditions in the first place. Further, it does not explore the effects that both modernization and the intrusion of formal agencies have had on displacing communities. As a result, the underlying assumptions of the imposed system, as well as the effects that it has on undermining traditional norms of socio-legal control, are not examined and refinements are made only at the micro-level. This leaves questions about who develops and administers the program unexplored.

Grounding initiatives in a macro-level framework: Increased community involvement must take place within a macro-level framework that recognizes the need for changes in the existing power structures and the relationships that they create. Such a framework must restore Inuit control over their political, social, economic and legal affairs. The author holds that "long-term solutions to the tragedy of natives in conflict with the law and the enhancement of increases community involvement in the control process will only emerge through success on political fronts that provide the macro-framework for development of an autonomous, indigenously controlled justice system".

Football, Betty Ann, William Kehoe, Madeleine Qumuatug, Wanda Vanelts and Ray Yellowknee. "Justice Committees as Vehicles to Justice Self-Determination", in *Justice and Northern Families: In Crisis... In Healing... In Control* . Burnaby: Northern Justice Society, Simon Fraser University, 1994.

This article, part of a workshop compendium, looks at some of the justice committees that are operating in the NWT - specifically in Fort McPherson, Rae-Edzo, Tuktoyaktuk and Iqaluit. It only gives a brief description of each, a description that represents one person's perspective, but some of the questions from the audience and dialogue between the audience members and the participants illuminate the issues that face a justice committee when being developed and operating in the North.

General Overview

This article gives an overview of a number of local Justice Committees operating in the North. Arising out of that overview and comments from the audience, a number of issues worthy of note come to the fore. The resource persons were Betty Ann Football (Courtworker, Rae-Edzo Friendship Centre, Rae-Edzo, NWT), William Kehoe (Vice-Chairman, Fort McPherson Justice Committee, Fort McPherson, NWT), Madeleine Qumuatuq (Coordinator, Adult Diversion Program, Iqaluit, NWT), Wanda Vanelts (Courtworker, Fort Mcpherson Justice Committee, Fort McPherson, NWT) and Ray Yellowknee (Area Supervisor, Native Counselling Services of Alberta, Edmonton, Alberta).

Underlying Themes

- Each local Justice Committee is unique, just like the communities they serve. There is no template that one community can provide for another - just suggestions and options. These have to be developed and molded for and by the community.
- Justice Committees recognizes that it is important to recognize who is being served - adult or young offender.

Findings

There are various local Justice Committees operating in the NWT:

Wabasca Youth Justice Committee: Operating since 1991, the Committee has four sub-committees. Although they mainly work with youth, the Committee also addresses first time adult offenders in the community. Only 10% of the youths that were diverted to the Committee re-offended. The dispositions they use include apologies, community service orders, and restitution, and the process focuses on healing the offender. The RCMP supports the initiative and the Justice Committee depends on the RCMP for referrals.

Iqaluit Adult Diversion Program: Operating since 1992, the Committee has five subcommittees. The committee is reliant on volunteers who make up such groups as a screening committee (to determine if it is a case that they can deal with - if not it goes back to the formal criminal justice system) and a follow-up committee/team (to address the needs of the offender after the disposition and recommendations have been made to ensure they are being met and the offender is getting what he/she needs). Between referral and follow-up the Committee works with the offender to persuade him or her not to act badly in the future, works to reconcile the offender with the victim, focuses on preventing division in the community and maintaining harmony between the victim and offender. The Committee deals with minor offences, such as shoplifting and fighting, although they are not all first-time offenders. The Committee relies on the RCMP and Crown counsel for referrals.

Fort McPherson Justice Committee: Operating since 1991, this Committee evolved from a youth justice committee to one that incorporates adult offenders as well. They have a close working relationship with the RCMP, Crown and Judge (for referrals, support and acceptance of community dispositions). They found that most of the recommendations they have made to the court have been accepted. Their main goal is healing the offender and the community. As a result there is a strong focus on healing. The participants noted that healing would take on a different look and plan of action for each community. For them, a community healing camp has been discussed for future development.

Rae-Edzo Band Justice Committee: At the time of the presentation, this initiative was not as successful as the others claimed to be. However, the participants pointed out that even though this particular initiative was not adequate, something must be done because circuit courts are definitely not working. As a small community they have experienced many problems that revolve around funding (none), a lack of community support and volunteers to assist the Committee, and a feeling of overwhelming powerlessness when facing the inter-related issues of criminal activity in the community, and wondering 'where to start'.

Tuktoyaktuk Justice Committee: Began in 1991, this justice committee makes recommendations to the circuit court that are grounded in traditional justice. Like the others, they rely on the RCMP for referrals and they are limited by low funding. They are cautious and point out the need to carefully consider a plan of action for the offenders who meet with the Justice Committee. They also recognize that the Committee, as a result of the offender-driven approach they have taken, has ignored the needs of the victim. The hold that Committee is trying to change that.

Conclusions/Issues from the Dialogue

Community specific: It is important that a number of options are explored to determine the best one for each community. As each community is unique, so must be their local Justice Committee (its operation, development, goals and relationship to the formal system).

Community driven: The community has to be very involved in the design and administration of a local Justice Committee as well as the recommendations that it makes to the court.

Justice Committees as a process: There are no instant solutions since many things take time to change. Committee representatives discussed how there have been ups and downs in their Committees operation and such periods of shifting levels of success are normal.

Relationship with other agencies: The relationship the Committee has with other agencies (the formal system) has to be clear. Will the focus be on diverting the cases from the formal system pre-charge, or will the focus be post-charge? In both cases an adequate referral system is required and a good working relationship with the RCMP, courts and Crown must be established. The courts must ensure that they will give serious consideration to the recommendations the Committee will make.

Case-selection: The cases that the community will deal with have to be determined in the development stages. For example will the Committee address minor offences, first time offenders, youth or adult offenders, or both? These are issues that should be adequately examined. However, as a Justice Committee evolves, so must their offence thresholds and case selection. A case-screening group may be useful in this case. A question that may guide their decision to get involved, suggested by the Iqaluit Adult Diversion Program, may be whether the help of the community (given their resources and abilities in relation to the offence in question) would make a difference for the offender and the victim.

Maintaining community commitment: Maintaining community commitment to the Justice Committee may be problematic. Strategies for addressing that have to be addressed. Consensus at this workshop was that the Committee needs strong, committed individuals involved.

Options for selecting Committee members: There are many ways a community can decide who will make up the Justice Committee. The participants held that such a determination should be based on the needs of each particular community. For some local Justice Committees it may be desirable to have the Elders choose members. For others, the Committee should be made up by those who are considered healthy and respected members of the community. Others felt it was important to include those individuals in the community who have recovered from abuse on the

Committee, as they may be best able to understand the offender's needs and motives as well as many issues involved.

The important role and needs of the victim: The victim must not get lost in the focus of healing and reconciling the offender.

Inuit Tapirisat of Canada. *Justice Needs Assessment Final Report to the Ministry of Justice.* Ottawa: Inuit Tapirisat of Canada, 1994.

This report examines a number of the general justice issues in the North and how these issues can be resolved through changes in the existing system. By describing this incorporation of needs into the existing system, the report is articulating one example of how the relationship between the mainstream system and community-based system might be established and what such a relationship might look like within a Northern environment..

General Overview
This report is an examination of the failure of the present justice system to meet the justice needs of Inuit communities. Through broad recommendations, the way(s) that those needs may be incorporated into the current criminal justice system are touched upon. It is a brief, preliminary report that touches on the issues, but does not offer any practical advice as to how these needs can, in fact, be operationalized within the existing system.

This findings and conclusions of this report relied upon consultations with regional Inuit organizations and with those who work in justice at the community level, interviews with Elders, courtworkers, lawyers, social workers and youth, and existing literature on the subject such as discussion papers, roundtable reports and ITC's justice workshop.

Underlying Themes/Assumptions

- It is both desirable and possible for the existing criminal justice system, with major adjustments, to meet the justice needs of Inuit people.
- There are a number of factors that contribute to the failure of the criminal justice system to meet the justice need of Inuit communities.

Findings
Failure of the existing criminal justice system: The existing justice system has failed Inuit communities on a number of levels. Lacking cultural sensitivity, the existing justice system is ill suited to meet the justice needs of Inuit communities. It does not incorporate Inuit customs, values or traditions and as a result, its form and content is alien to Inuit notions of justice. Another problem is that a significant number of communities have no police services. Similarly, correctional facilities, located far away from the communities they serve, lack cultural sensitivity by failing to meet the needs of the Inuit offender (i.e., understanding the role of language, the need to heal and build traditional and modern skills) and their relationship with their community (i.e., the effects of isolation from the larger social network).

Lack of community involvement and training: The lack of community involvement and trained community members in the administration and delivery of justice is a problem and limits the ability of the existing system to meet the justice needs of Inuit community members.

Conclusions

The authors concluded that justice must operate in the community. As a result, the content, form and process must be altered:

Content: The existing justice system should be altered in terms of content. Specific areas should be amended to reflect Inuit cultural differences. The Inuit way, although different, is effective. In this reformed system, customary laws and traditional dispute resolution methods would play a large role.

Enlarging community roles and responsibilities: Justice should be returned to the community by altering the degree of responsibility at the community level. Inuit involvement in the (Inuit specific) justice system would prevent feelings of alienation and foster a greater understanding of the process. By involving the community in criminal proceedings - from initial charge to follow-up, a greater sense of ownership will be established.

Adequate training: The justice agents and representatives who serve Inuit communities and community members should be Inuit. This would make the system more meaningful. However, before this can be possible, adequate training is required so that Inuit peoples can successfully fill the justice positions.

Police reform: The police in the Northern Inuit communities need to be more visible and culturally sensitive. The quality of policing in Northern communities requires attention and examination to ensure that all Northern communities receive adequate and responsive police services.

Role of healing and preventing: A shift in focus is required, a move from incarcerating offenders to treating them. In order to adequately accomplish this the instruments of healing – such as mental health facilities – must be in the community. If they were geographically closer they would be more accessible to the communities that have a need for them.

Victims: Treatment must also be provided to victims of sexual abuse and domestic violence. Victims need more support (such as counseling and healing centers) and resources that inform them of the instruments that exist to incorporate their concerns into the system (i.e., victim impact statements).

Important contributions of Elders: The role of Elders must be incorporated into the dialogue.

Importance of a youth focus: The focus of a community-centred justice system must pay considerable attention to youths. Youth justice committees, grounded in the community, are aware of the social problems and challenges facing Inuit youth, while at the same time incorporates a community-based solution to the problems.

Cooperative relations with outside Federal and Territorial governments: These recommendations, based on incorporating traditional dispute-resolution mechanisms into the modern justice system, are to be accomplished through the joint efforts of the territorial, federal governments and the community level individuals organizations.

Joamie, Eric, Judge Orral Troy, Rhoda Katsuk, Jim Eagle. "The Role of Court Workers and Para-Legals", in the Justice System in *Preventing and Responding to Northern Crime* Burnaby: Northern Justice Society, Simon Fraser University, 1990.

This article, part of a workshop compendium, highlights the vital role that is played by Court Workers and para-legals in the North. The vast space and small communities lacking adequate legal counsel, let alone police, provide a situation where the Court Workers and para-legals are an integral part of justice and representation in the North. It also highlights the limitations and justice needs in the North. Court Workers do not represent a community-based initiative or focus. Rather, the program is about ensuring that the Inuit accused or victim is aware of the formal legal system and their rights and responsibilities within it. This piece speaks to the Northern environment, the relationship with the mainstream justice system, as well as lessons learned.

General

This article describes the expanding role of the Courtworker, from assisting Northern offenders and victims in understanding the laws and their role in it, to representing them (as lawyers) in summary and indictable offences. It gives a clear overview of the roles of Court workers, the important role they play in Northern communities, and the challenges they face. The resource persons were representatives from Maliiganik Tukisiiniakvik (Joamie and Katsuk), an organization of Court Workers and translators, The Odawa Native Friendship Centre (Eagle) and the Territorial Court Judiciary (Troy).

Underlying Themes from the Dialogue

- The participants discussed how the circuit courts have failed to meet the needs of Northern residents.
- It was held that it is important that Northern residents - as victims or offenders - know the justice system, their legal rights and responsibilities.

Findings

General Courtworkers' environment: Courtworkers are Inuit para-professionals. They are not given any formal training. Instead, for many, it is a learning process, guided by on the job training. In the Baffin Region, as of 1990, there were 9 court workers to serve 14 communities.

Why Courtworkers are needed: The lack of time that the circuit court has to offer victims, witnesses, and accused has made it necessary to have a system where the individuals are informed of and understand the system that they are being subjected to. In the North there are few lawyers available. Participants pointed out that lacking a resident lawyer means that when a youth or adult is charged with an offence, there are no lawyers available to advise him or her. Courtworkers act as the agent of the accused and inform them of their rights and the criminal justice process.

Inuit Courtworkers are able to inform the court about the community that the court is addressing. Finally, Courtworkers are needed because they speak Inuktitut. As a result, they are able to communicate to the accused and the other parties in their native tongue.

Roles of the Courtworkers: Courtworkers perform a variety of roles. They act as a **liaison** between the criminal justice system (court, judge, and counsel) on one hand, and the accused and his or her community on the other. Participants noted that Courtworkers better understand the environment, the accused's culture, and the problems they face. Because of this knowledge they are better able to explain to the court the nature of the problem and what should be done to correct it. They know the language of the communities so they can interview in Inuktitut. This means that more accurate and relevant information is gathered and shared in both directions - from the court to the accused and from the accused to the court. They **represent the accused** in the Territorial and Justice of the Peace courts on summary matters for adults, and for both summary and indictable for young offenders. They **educate** the public/community on a host of legal matters and if the community has any concerns or questions, Courtworkers act as a resource. In many cases, they are the only contact that the community (accused, victim or general member) has other than the circuit court and as a result they play a fundamental role in the delivery of justice.

Courtworkers and young offenders: Courtworkers play a vital role in representing the criminal justice needs of young offenders in the North. They act as a representative of the youth. At the request of a young offender, Courtworkers speak to the court on behalf of the youth, whether it is a summary or indictable matter. One of the resource persons described the process, highlighting the lawyer-like role of the Courtworker: The youth often calls a Courtworker upon being arrested and the Courtworker explains to them their rights, advising them about what to do and what not to do. They schedule a meeting with the youth and his/her parents to explain the process to them, learn all they can about the youth, discuss the youth's plea and any alternatives that are available to them as well as the possibility of having the matter transferred to the local Justice Committee, if one exists. If the matter stays in the court, the Courtworker arranges to have a predisposition report done and the will go over it with youth. In fact, as many participants pointed out, defense lawyers may never even become involved.

Challenges they face/limitations: The Courtworker has to work **within the existing system**. They have to explain the process of the formal system to people who do not see it as meeting their needs. One participant stated that the program is just a form of using Inuit people to apply the criminal justice system to other Inuit people. Also, there is not enough **funding** to do their job properly and to the extent that the community needs them. Finally, participants spoke about the problems with justice delivery generally in the North and how because of the lack of any infrastructure to meet the justice needs of the communities, their legal rights are not being met. (i.e. often there is simply no counsel available. As a result the accused does not even have an opportunity to consult with a lawyer if they preferred to discuss the case with one instead of a Courtworker.)

Heatherington, Jackie and Alice Mackenzie. "Victim/Witness Assistance Programs in Kenora and Yellowknife", in *Justice and Northern Families: In Crisis... In Healing... In Control*. Burnaby: Northern Justice Society, Simon Fraser University, 1994.

In this article, a workshop compendium, the role of Victim and Witness programs in ensuring justice for the victims and witnesses of crime across Canada is explored. Given the structure of the formal mainstream system, where the victim has a limited role, and their needs are often not addressed, such a support system is necessary. The role of these programs in smaller, isolated, Northern communities is a bit different, but extremely important. The challenges they present to the government and communities may seem insurmountable. However, the formal system will remain for a while and support must be provided for these victims and witnesses. As such, the article speaks to the Northern environment, the relationship that may be developed with the mainstream justice system, and the lessons learned.

General

In this article the participants discuss the history, purpose and operation of the victim/witness programs in Kenora, Ontario and Yellowknife, NWT. Through the recorded audience dialogue and their discussion of the programs and how they operate, a number of relevant and important issues emerge.

Underlying Themes

- Because women and children represent most of the victims and witnesses that the program assists, the issues and challenges they discuss directly affect the limitations of women and children, specifically, in small Northern communities to seek representation and justice.

Findings from the Presentations and Dialogue

Objectives of the program: Because the state takes over as victim in a crime, the *real* victim of a crime is often given little attention and a small role to play in the criminal justice system. Similarly, witnesses are often not assisted in addressing the impact of what they may have seen (especially children and witnesses of violent crimes). The Victim/Witness program recognizes this and acts as a support system by explaining the process and preparing them for trial. The program helps to maintain an awareness of the special needs of victims in family violence, sexual assault and vulnerable witnesses. In the Northwest Territories the focus is on communicating to the courts the special needs of the Northern resident and trying to make the system more understandable to the communities. The program attempts to provide a form of victim participation in the process.

Resources: The limited funding available has resulted in the program only being able to focus on the most important cases - such as sexual assault, domestic violence and children. They are unable to address victims and witnesses in other cases.

Challenges of small Northern communities: There are a number of challenges that the victim/witness program must overcome. For example, one workshop participant stated that in many cases of sexual assault and violence against women, comminutes do not believe that what the female victim is saying is true. As a result of this **lack of community support** the case gets dropped because the woman refuses to pursue the matter. The participants also spoke about the

referral system and how referrals come from the police and Crown counsel. If the program is not taken seriously or the referral is not made, victims in small isolated communities do not get the limited support that may be available. Another challenge is the **low number of Victim/Witness assistants available in the Northwest Territories**; a number too low to effectively meet the needs of the small, more isolated Northern communities. In fact, there are only two Victim/Witness Assistants in the Northwest Territories: one in Iqaluit and the other in Yellowknife. Those two have limited assistance they can offer someone in Pond Inlet or any other small community.[2] Finally, because of the isolated nature of the communities, the circuit courts, and the lack of responsive and efficient police services, the victim or witness is **often left in the community with the offender with no support**.

Responses to the challenges of operating victim/witness programs in small isolated communities: Community-based Victim/Witness programs are operating in communities such as Fortsmith, Northwest Territories out of the Friendship Centre. While it is not necessary that the Department of Justice operate them, they do require community knowledge and ability. Similarly, a videotape, at the time of this conference, was being put together (in Inuktitut) so communities can start their own voluntary training. This will help address the above noted limitations and assist communities that are prepared to support the victim.

General limitations of the program: There are some general limitations of the program addressed in the article: that it does not really prevent the problem or attempt to resolve the issues. Instead, the program responds to the problem by trying to make the journey through the existing system more comfortable. Further, although the program makes referrals to the relevant social agencies for the victim or the witness, real follow-up is non-existent.

Conclusions

- Programs such as these require adequate funding so there can be an opportunity to do a proper job.
- If community-based justice initiatives operate to represent, include and account for the needs of victims and witnesses of violent crimes, such programs will not be necessary.

Griffiths, C.T and A. Patenaude. "The Use of Community Service Orders and Restitution in the Canadian North: The Prospects and Problems of 'Localized Corrections' ", in B. Galaway and J. Hudson (eds.) *Criminal Justice, Restitution and Reconciliation* Monsey, NY: Criminal Justice Press, 1990.

This article examines the Northern environment, the dynamics of community mobilization, and community mobilization and power dynamics.

General Overview

Combining a literature review with relevant data on crime in the Northwest Territories, this article examines the failure of localized corrections to meet the needs of local community members and communities in the North. The vast distances between and relative isolation of

[2] Interestingly, there are more than 12 sites in Ontario.

Inuit communities in the North significantly influences the form, process and delivery of justice services. As a result of this Northern situation, circuit courts have been the form of justice delivery. The researchers note that these conditions - vast distances and relative isolation - are prime conditions for the development of community-based justice services and programs. However, although such community-based corrections have been used, several difficulties have hindered their effectiveness as potential community-based and community originated approaches. The authors examines the way that the use of community service orders and restitution in corrections in the North have failed to be an effective community-based alternative that is relevant to the needs of the offender

Themes

- The authors hold that corrections in the North need to draw upon and represent the community.
- The experience of restitution and community service orders, as they have been used in the past, represent a missed opportunity. They presented an opportunity to develop a community-based alternative that first, is relevant to the needs of the offender, victim and community and that second, meets both the needs of the community and the demands of the larger Canadian criminal justice system and the *Criminal Code of Canada*.
- The relationship between the community-based alternative and the larger, formal system is one that must be approached carefully - there is a tendency for the community-based corrections programs to be undermined by larger system.
- The focus in this research is on the failures of *community service orders* and *restitution* as forms of 'localized corrections'. There are a number of other forms not dealt with in this analysis that the authors may propose as more successful in meeting the needs of and representing the communities (i.e. Youth justice Committees or Elders Councils).

Findings

Community-based corrections provide an alternative to circuit courts: Circuit courts are problematic. Huge backlogs, time constraints, the absence of interpretive services and a lack of understanding of Inuit culture by those who fly in, have resulted in dispositions that are not relevant to the community. Community-based corrections, by involving the community in addressing crime is seen as an alternative that meets the needs of the parties for restitution and reconciliation and does so in a more relevant manner. As a result, a number of initiatives have developed grounded in diversion (Youth justice Committees) and corrections (community service orders, restitution, Elders Committees, Victim Offender Reconciliation Programs). These are all commonly utilized corrections in the North.

Difficulties that have been encountered - the limitations of community service orders and restitution in Northern communities: The researchers attempt to determine why the use of community service orders and restitution in the North have failed to meet the justice needs of the community in resolving disputes at the local level. They found three difficulties, or factors, that have limited the ability of community-based corrections to be a true community-based initiative, with a community originated approach. Underlying these three factors is the formal criminal justice system and the way it operated to undermine the concept of localized corrections:

- First, the dependency of the communities upon outside government to initiate, fund and support community corrections programs was a problem. As a result of this the programs have been imposed *upon* the community, not developed by the community.
- Second, the researchers note that there is tension between the traditional notions of conflict resolution and those that are represented in the community service order or restitution. In the mainstream system the state intervenes and restitution is sought on its behalf since it is the victim (crimes and anti-social acts are crimes against the state). Traditionally and (in many cases) presently, in Northern communities, these anti-social acts were a transgression against another person. The form of restitution then, based on the mainstream system's approach to who is harmed, does not meet the community needs and expectations since the victim, in these localized corrections does not receive restitution.
- Third, operational difficulties have limited the ability of restitution and community service orders to meet the needs of the community. For example, many community service orders go unfulfilled because of a lack of adequate supervision and a lack of worthwhile community service order projects.

Lack of community involvement: This was seen as the major problem. Instead of using the community and its resources, the initiatives were developed from outside, with no community participation or input. The researchers held that local programs must be tailored, developed and implemented to meet the specific needs of the community, drawing on the community's skills and strengths.

Consequences of inaction: If these limitations are not addressed the authors hold that there will be a continued dependency upon external forces for corrections and a further erosion of traditional practices.

Recommendations

Development of a bottom-up framework: The researchers suggest the development of a bottom-up framework for local corrections. This framework would guide the use of localized corrections in the North. Such a framework has many benefits for community members. Specifically, community residents, rather than government and their agencies, have responsibility for identifying and addressing the needs of offenders and victims. It also acknowledges the unique needs of each community and allows for direct input of community members in local corrections. It is important to remember that such an approach requires a clear definition of who and what makes up 'the community'. Such a definition will certainly assist the community in many of its community-based alternatives and initiatives.

Kamin, Andrea and Romeo Beatch. "A Community Development Approach to Mental Health Services", in *Northern Review* 7, 1991 Summer.

This article provides a first-hand analysis of community control over the development, form, and administration of a shelter for battered women in Spence Bay. The residents, initially led by the women in the community and then including concerned men, developed a response to domestic violence. This response reflected the needs and concerns of the Inuit women in the community as both victims of violence attempting to end the violence, and as Inuit women, attempting to

address the violence in an Inuit way. A mental health specialist assisted the women. Her role as outside professional was one of initial guidance, continuing assistance and a constant resource. This overview of the experience addresses lessons learned, the Northern environment, and community mobilization and power dynamics.

General Overview

This article chronicles the community-based development and administration of a shelter for battered women in Spence Bay, NWT. Inuit women in the community decided that they wanted to address, in a culturally and geographically appropriate way the violence being suffered by Inuit women at the hands of their male partners. Geographically and culturally isolated from Southern solutions and institutions, the women and men realized that any real solution had to flow from the community. This article highlights the cooperative approach taken between the larger social services available to the community and the community residents. This relationship was characterized by a sharing of information and educational resources in order to empower the community to take that knowledge, combine it with their community's needs and begin the process of effectively addressing domestic violence. This article also illustrates the primary role of community members, as paraprofessionals, in dealing with mental and social problems in the community.

This article is based on the experiences of the authors in assisting the community residents of Spence Bay to develop and implement a shelter for battered women. Kamin is the Mental Health Specialist for the Kitikmeot Region and Beatch was the Director of the NWT Family Counselling Service. Their role as professionals and resources guided the project and workshops. They visited the community at least three times over a period of two years and have maintained on-going contact.

Underlying Themes

- The inherent difficulties of providing social services in the scattered Arctic communities of the Northwest Territories can be overcome with a community development approach, an approach that empowers the community to determine the agenda and plan of action with the assistance of professionals in the field.
- The Northern environment requires strategies that are specific to the context of the North, not ones based on Southern models and experiences.
- There is a shortage of mental health practitioners in Northern communities. The authors point out that this shortage can be dealt with in three ways: by preventing problems from arising, by increasing the number of professionals available, or by training lay counsellors to provide direct service. The authors consider this last option, where community members are trained to become 'paraprofessionals', as the most effective route, especially in remote Northern communities.

Findings

The relationship between engaging in traditional activities and the decline in domestic violence: The researchers note that during the summer months, when Inuit in Spence Bay are participating in traditional activities, less family violence occurs. While the families are leading a traditional lifestyle (on the land, hunting and fishing for a number of months at a time, residing in tents, surrounded by other extended families in their own tents) conflict is not as common.

The experience of Spence Bay: An Inuit women's group in Spence Bay, responding to the high levels of domestic violence and the inappropriate options available to abused Inuit women, organized themselves to address the issue. The options available to an abused woman included either going South to a shelter, where they would be without the support of family and friends and face a form of culture shock, or remaining in the abusive situation. The women wanted first, to deal with the family violence on a community level, second, to learn the skills needed to operate a woman's shelter in their community, and third, to learn counselling skills to address the needs of the victim at a shelter.

A community development model of addressing mental health services (spousal assault in this case): This model is community-centred, not problem-centred. This means that it is the environment and the needs of the community members that determine what the problem is, how it will be addressed and what the intended results are. First, the community defines the needs and the problem. Then, they are assisted by outside agencies to develop a plan that can facilitate the meeting of their needs. During this time, the community members are trained as paraprofessionals in order to develop and administer a program at the community level, by the community members, in a fashion that represents the needs of the community.

Paraprofessionals: Paraprofessionals are defined as people within a community who lack formal psychological training but who are involved within their society as community-type workers.

Advantages of paraprofessionals to address mental health issues in Inuit communities: The authors hold that a number of benefits flow from training community members to develop, implement, and respond to the social and mental needs of the community. Specifically, they point out that trained paraprofessionals perform as well or better than professionals, that paraprofessionals (through learning and helping others) often experience personal growth, and that using paraprofessionals increases the number of people attended to. Further, paraprofessionals tend to be more open to innovative strategies, they lack the formality that many professionals have (a formality that results in barriers between the client and the professional), and they have better knowledge of the community - its residents, its history and its needs. As a result, traditional values are incorporated and the positive values that guide the community determine the route.

Role of the professional/specialist in a community development model: This individual is present to assist the community in defining, for themselves, what issues they want to confront and how those issues might be resolved. They are information givers and background facilitators. They help with problem identification and act as a resource for background information and consultation. In this example, the professionals organized three workshops for the community. These workshops, spread out over two years, dealt with sharing general information on spousal assault, provided specific training to men and women, and provided a forum for addressing issues that have come up. They were operated in such a way that encouraged trust-building and community empowerment since knowledge was shared, Inuit values were incorporated, and the information was given (through workshops and other resources) in both English and Inuktitut. The mental health professional also arranged for **financial support** from the Department of Social Services, and got the support of the YWCA's Allison MacTeer House, the women's shelter in Yellowknife, to assist the women in Spence Bay in organizing and operating a women's shelter.

Conclusions

Role of Preparation: The authors note that this approach - empowering community members through training and assistance to become paraprofessionals - was successful as a result of many things. Consistent, organized preparation was an important factor. This involved a review of what has been tried and did not work, or only partially worked in the community and required the development of links with other organizations and resources.

Importance of grounding the training within the community: The authors note that the workshops and training took place in their own community of Spence Bay and the information was presented in Inuktitut. This provided a familiar context and contributed to the development of community resourcefulness and confidence.

Importance of on-going support: The professionals had consistent contact with the community. Their communication and contact was not limited to the workshops only, but they were available to the trained paraprofessionals in the community for telephone consultations. This on-going support instills a sense of confidence and continuance to the project and plays an important role in empowering the community. The authors note that it is important that this contact be maintained to provide continued support if and when necessary to the community. Continued contact will also assist in expanding and perpetuating community resources throughout the community.

Success in Spence Bay: The authors hold that the community development model in Spence Bay was successful. This conclusion is based on the fact that the women of Spence Bay, at the time of writing this article, were organizing a regional conference of Inuit women from all Kitikmeot communities. This conference will include discussion on the progress of family violence groups in the communities and Spence Bay women will be sharing information with other women on their approach to addressing family violence in their community. This is a sign that the community is more empowered than it initially was.

Johnston, Joseph C. *Northern Aboriginal Offenders in Federal Custody: A Profile.* Ottawa: Correctional Service Canada, Research and Statistics Branch, 1994.

It is important to know the needs and conditions that face many Inuit offenders that are now incarcerated. While the Evans et al. report highlighted the facilities available within the Northwest Territories (for offenders sentenced to less than two years in custody) and the characteristics and needs of the Inuit population within them, this report looks to federal institutions. Federal institutions (housing offenders sentenced to more than two years in custody), based in Southern communities, create special challenges to Northern Aboriginal offenders. This report speaks to those challenges as well as providing important information on the Northern Aboriginal offenders within these Federal institutions, providing an overview of the Northern environment.

General Overview

This report was prepared for Correctional Service Canada to highlight the characteristics of Northern Aboriginal offenders incarcerated in Federal institutions. A number of factors prompted the need for a systematic and comprehensive profile of Northern offenders.

Specifically, the creation of Nunavut, self-government issues and the possible repatriation of Northern Aboriginal offenders incarcerated in southern institutions.

In-depth interviews with half of all the Northern Aboriginal offenders in Corrections Canada correctional centres (64 subjects) were undertaken, asking their opinions and studying their backgrounds. Case file reviews of each interviewee also formed the basis for their findings. The Prairie region institutions and the Yellowknife Correctional Centre were the sampling sites.

Underlying Themes

- Correctional services and justice officials need to learn about a number of things in relation to the needs and issues of Northern Aboriginal offenders. Specifically, officials need to know about their programming needs, important issues based on their lifestyles, and the impact of being incarcerated far from home.
- By enhancing our knowledge of the Northern Aboriginal population, it is hoped that Northern Aboriginal peoples in correctional institutions will experience more culturally sensitive treatment that is applied by a more aware staff.

Findings

Demographics: 56.3% of the sample was Inuit. English, if spoken at all, is a second language to 62.5% of the respondents, with 40.6% reported their first language as Inuktitut.

Youth related information: Case files of the sample were examined and interviews undertaken to record the presence youth-related problematic factors. A prevalence of alcohol and drug abuse, neglect and physical and sexual abuse was discovered. Many of these offenders had a troublesome youth. 84.4% recorded alcohol abuse in their youth, 50% recorded being physically abused, 50% recorded drug abuse, almost 40% lived in poverty and suffered neglected by their parents, while 35.9% had absent parent(s).

Education: 53.1% had less than a grade 10 education.

Lifestyle prior to incarceration: Almost 40% led a lifestyle characterized by seasonal rotation between land (sustenance through fishing, hunting and trapping) and town.

Employment prior to incarceration: 46.9% reported being semi-skilled, 29.7% had odd jobs and unstable employment, 10.9% were skilled workers, employed full time, and 9.5% had traditional employment (i.e., fur trade, fishing, and carving).

Reported difficulties associated with being in a federal institution: 60.9% reported adjustment problems, 35.9% reported having no chance to talk with families, and 51.6% stated that they had no knowledge of federal institutions.

Contact with family and friends: 86% reported no visits in the federal institution. 67.2% responded that they speak to family or friends weekly on the phone, and 39.9% responded that they had contact weekly through letters. These results mirror the geographic distance between the federal institution and the Northern Aboriginal person's home community.

Recorded security incidents/problems: From the case files, 62.5% of the population sampled had no security incidents on file.

Institutional performance: From the case files, 29.7% had good reports and 48.4% had no problems at all reported.

Institutional programming: While 70.3% of the population sampled were taking part in some form of programming, their attitude towards that programming was mixed. 51.6% felt positive about it, 9.4% had negative feelings and 31.3% had mixed feelings.

Aboriginal programming: 45.3% of the sample reported having never participated in Aboriginal programming in federal institutions. This is the result of federal institutions utilizing Southern/First Nations programming, a culture that is significantly different from Inuit or Northern Aboriginal culture. Many Northern Aboriginal inmates didn't feel comfortable with that programming.

Criminal histories: From the Canadian Police Information Centre Database, the researchers found a variety of criminal offences/histories of the sample. The level of violent crimes was high and violent offences were common to the group. 40.6% had three or more assault convictions, 29.7% had one sexual offence conviction and more than half of the sample (57.8%) had at least one sexual offence conviction.

Conclusions

Violent legacy: The backgrounds held by these offenders were fertile soil for criminal activity and participating in violent crimes. Poverty, substance abuse, physical and sexual abuse, and neglect represent bleak social conditions that not only form the basis for criminal activity, they perpetuate the cycle of crime.

Problematic nature of the federal institution for the Northern Aboriginal offender: Set in Southern communities and using First Nations programming techniques and tools have made being incarcerated in a federal institution a real problem for Northern Aboriginal offenders. Far from home, they are in an environment, climate and landscape that is alien to them, the food they eat is different, and visits from family and friends are rare. Compounding this is the fact that the officials in federal institutions, for the most part, do not speak Inuktitut. Not surprisingly, all but two of those sampled said that they would prefer to be incarcerated in the North.

LaPrairie, Carol. *The New Justice: Some Implications for Aboriginal Communities*. Ottawa: Department of Justice, 1997.

The nature of community relationships and the important issues of community dynamics and mobilization are explored and grounded in this paper, with a particular emphasis on Aboriginal communities.

General Overview

LaPrairie documents the rise of the new justice (restorative justice, informal justice) and finds that it is grounded in a challenge, by communities, to the state monopoly on the discussion,

definition, administration and control over justice. In the new justice the community is the focus. In this article, LaPrairie examines and describes the critical issues of community in community-based justice initiatives within Aboriginal communities. Based on that analysis she lists the principles that should be incorporated into the development and implementation of local justice initiatives so that these critical community issues are adequately addressed.

Themes/Assumptions

- It is too simplistic to assume that all the problems caused by the mainstream, formal criminal justice system are automatically alleviated if the community is involved.
- The central role of the community in community-based justice initiatives requires an examination of the issues of 'community' in Aboriginal communities.

Findings

Community involvement can take place at one or both of two levels: Involvement can take place through the greater participation of community members in the adjudication process (such as Sentencing Circles, local Justices of the Peace, sentencing panels or Elder panels) or in the alternative approaches to formal judicial processing (i.e., mediation and diversion).

Defining the community: It is critical that the *community be defined* so that it can adequately fulfill the obligations and responsibilities that it has, and the obligations and responsibilities that arise from justice that is based in the community. There are a number of forms such a definition can take (i.e., as a community of care or as a concept of community that is grounded in geography). Whichever form is chosen, it must be clearly articulated.

Community representation: It is critical that the individuals who participate in local, community-based justice initiatives *represent the community* that it both intends to serve and relies upon (i.e., the victim, the offender and the larger circle of those involved). If it is not represented, the community will not support it and as a result the goals of the initiative will be undermined.

Community involvement and participation: It is critical that there is adequate *community involvement and participation* in community-based initiatives. The community must be involved in determining case selection (so the needs of those involved are indeed met) and in determining how their resources (financial and human), often limited, will be used. Power dynamics in communities might decrease the level of community involvement and efforts must be made to address this and ensure full participation.

Accountability: It is critical that there is *accountability* in community-justice initiatives. This is a paramount issue if members are to see the community-based structures as legitimate and credible.

Presence of these issues in the evaluation literature: Through her examination of the evaluations of community-based justice initiatives that have been done (Hollow Water, Sentencing circles, community justice committees), the author finds that although the data is elusive at present, there are problems that arise. These problems are grounded in the community issues she outlined. Specifically, she addresses the level of community satisfaction and the offender-focus (which often takes place at the expense of addressing victim needs).

Conclusions

Need for greater clarity: The problems that have been experienced to date indicate that there exists a need for greater clarity in the development and implementation of local justice services.

Principles to incorporate in developing community-based justice initiatives: The author holds that community justice is very important, but if it is intended to meet the symbolic and real needs of the community, the offender and the victim(s), the community has to play a realistic, credible and effective role in addressing the harm and its effects, reintegrating individuals back into the community, and strengthening the community. The following principles (to guide the development of local justice initiatives) are presented as ways to ensure that these goals are met:

- The establishment of an effective and appropriate determination of *case selection* (which offences or offenders the community has the capacity to deal with and those as opposed to those cases which should remain in the mainstream system) is necessary. This requires a clear *assessment of the capacity of the community* to effectively respond to the problem (through ensuring community education, support for, and involvement in justice projects).
- *Defining the appropriate community* to respond most appropriately and legitimately to the problem;
- *Determining who represents the community* in developing and applying justice responses;
- *The proper selection of and adequate training for project personnel;*
- *The development and support for effective monitoring systems* so that evaluation and refinement is possible. The initiative must be *monitored* through community evaluations, victim and offender satisfaction and the impact of the initiative on crime rates and recidivism;

- *Ensuring the participation and involvement of the victim, offender and community* so that one group does not dominate; and
- *Adopting and ensuring an approach that fits that local community*, their needs and abilities.

Mourot, Lynne and Betty Bird. "Intensive Supervision as an Alternative to Custody for Young Offenders", in *Preventing and Responding to Northern Crime* Burnaby: Northern Justice Society, Simon Fraser University, 1990.

Intensive supervision is an alternative measure, one that is grounded in the resources of the community. It arises from the needs of the community to address the actions of the young offender. It is an example, one among many that are discussed here, of a community-based alternative that some First Nations are using. This presentation and the following discussion highlights lessons learned, the Northern environment, and the issues surrounding community mobilization and power dynamics.

General Overview

Through dialogue led by Lynne Mourot (Regional Young Offender Manager, North East Region, Saskatchewan; Social Services, Prince Albert, Saskatchewan) and Betty Bird (Intensive

supervisor in Little Red River Reserve, Saskatchewan) the use of intensive supervision is described, the roles of the agents are discussed, and the challenges it faces are articulated. Intensive Supervision is an alternative measure for young offenders (as outlined in the *Young Offenders Act)*. It is used in conjunction with probation to maintain a young offender in his or her own home instead of at a custody facility.

Underlying Themes

- A rigid structure is required when looking at alternatives to incarceration. The program must be carefully thought out and planned, representing the needs of the community and the young offender, and everyone must be clear about their roles in the process.
- If alternatives to custody and incarceration are going to be successful, they must use the resources in the youth's family and community.
- Alternatives to the existing system must recognize the need to balance a number of interests: the protection of society, the needs of the community, the needs of the victims, the special needs of the offender and at the same time encourage accountability.

Findings

Intensive Supervision as a community-based initiative/alternative: It is a model that emphasizes the community by using community homes and the resources that the community has to offer. It is based on the community's need to be involved in effectively addressing the behaviour. It is a program that is run by project coordinators and supervisors within the community.

Intensive supervisors: Intensive supervisors, respected members of the community, live in the community and have cultural knowledge. They apply to become intensive supervisors and they are paid for their services. They are given training and they are teamed with a youth that the organization feels they are compatible with. For example, if a youth gets into trouble with the law, the project coordinator will go to the court and inform the judge that there is someone available in the community to supervise the youth, spend time with him or her and ensure that the conditions of probation are met. A contract is drawn up, agreed to and signed, by the youth, the supervisor, the youth court, parents, the lawyer and the youth services supervisor. In the contract the schedule is specified: the number of hours per week for so many months. The intensive time spent with the youth is intended to decrease as time goes on.

Criteria for recruitment of supervisors: Elders and community members choose a natural helper, someone who cares about the youths in the community. The individual cannot be a member of the youth's immediate family, they cannot live in the same house and they must not have a criminal record. The supervisor must represent a figure of authority for the youth.

Responsibilities/roles of the intensive supervisor: The intensive supervisor has a variety of responsibilities and roles. They ensure that the conditions of probation are followed (i.e. alcohol treatment, school attendance, getting home at particular times/curfews). It is important that the supervisor understand the needs of the youth, so that they can work with the youth in a way that will prevent the youth from being put into a position that will make failure imminent. For example, if the youth is 17 years old and not successful in school, it may be a bad idea for the supervisor to push school attendance. If they did, the youth may be 'set up' for failure.

Consequently the intensive supervisor must know the youth, their strengths and weaknesses and have familiarity with the youth's environment. The supervisor is also responsible for attending to and knowing the youth's progress and behaviour at school or in the community generally. Finally, the intensive supervisor acts as an advocate for the youth, standing up for their interests when necessary and providing care, guidance and support. The supervisor works with the whole family, these activities are not done in isolation with the youth.

Challenges that face the program: (1) Addressing low levels of involvement in the community. The resource persons held that the answer to this real limitation is to give the community active roles and responsibilities in organizing and ensuring their representation. Doing so may inspire members to become more involved. (2) Participants held that some parents have treated this program as a babysitter service. This is a real problem. Referring to the intensive supervisors as babysitters of their children limits the parental involvement and belittles the important role that intensive supervisors play.

Conclusions

- Intensive supervision is an alternative to formal court processing. It can be effective where the community resources, both human and financial, exist.
- The success of the alternative is reliant upon a number of things. It is reliant upon the formal system for support. If the youth court judge does not agree to it, intensive supervision does not happen. It is also reliant upon the family of the youth to play a proactive role with the intensive supervisor.
- It is an initiative that amalgamates the community and the formal system. They work together to meet the needs of the youth and the community.

Nungak, Zebedee. "Fundamental Values, Norms, and Concepts of Justice" in *Aboriginal Peoples and the Justice System.* Ottawa: Royal Commission on Aboriginal Peoples, 1993.

Although this was written with the interests of the Inuit communities of Northern Quebec at the fore, a number of issues that it addresses are relevant for justice dialogue in Nunavut. In this article, Iqaluit was deemed an example for Nunavik even though the programs Nungak speaks highly of have a number of problems that will be replicated if the program is adopted as it is. This article addresses the Northern environment and the relationship with the formal criminal justice system.

General Overview

This article was submitted by the author and presented to the Royal Commission on Aboriginal People's Round Table Discussion *Aboriginal Peoples and the Justice System.* Nungak was the Chair of the Inuit Justice Task Force and is now vice-president of Makivik Corporation. Much of this discussion revolves around Nunavik and the Inuit experiences in Northern Quebec. Nungak speaks to the need for fundamental reform in the way the justice system operates in Inuit communities. He holds that the lack of Inuit control is the fundamental flaw of the justice system. In his four appendices Nungak explores justice issues affecting residents of the Arctic. First, he briefly outlines the limitations of the justice system that is available to the residents of Nunavik and presents three alternative dispute resolution models. Second, he examines the unique justice needs of the Nunavik communities. Third, he looks to other jurisdictions, specifically Iqaluit, to

examine how the justice needs of those Northern residents and Inuit are met. Fourth, he discusses the cross-cultural/training program in Quebec and raises important issues regarding Inuit peoples and the criminal justice system. Through his consultations with Nunavik communities and research into other Arctic communities and their handling of justice issues Nungak came to a number of conclusions regarding justice issues in the Arctic environment and Nunavik in particular.

Underlying Themes/Assumptions

- Inuit perspectives and values are different from the dominant perspectives and values in many respects, and justice is one of them.
- Fundamental reform to the criminal justice system and a large amount of resources - human and financial - are required before an effective justice system for Nunavik is realized. Even though this seems to be a huge task, it must be done. An effective justice system is needed immediately.
- Pre-contact, traditional Inuit society represented self-sufficiency, ability, and organization. Contact and the policies of colonization contributed to the loss of the Inuit sense of adequacy and ability.

Findings and Conclusions

The shortcomings of the present justice system and its administration are numerous. Among the problems are the adversarial nature, the external site for control, the long delays, the cost, the reliance on specially trained professionals to decipher and interpret a complicated system, and the implications of being administered by those who are ignorant of Inuit culture and society and language. These are all serious issues that must be addressed when considering justice in the North.

Northern environment: The author points out that the issues of geography must be considered when planning justice forms and initiatives whether at the community level or the governmental level. Living in a remote Arctic environment means special needs arise. The distant and foreign detention centres, the lack of available legal services in the community, the lack of addiction healing facilities and family crisis services are all examples of the failure of the existing system to meet Northern justice needs.

Need for Inuit administration of justice: Nungak calls for a criminal justice system administered by Inuit peoples. There is a need for Inuit police, courts and detention facilities, operating on principles that reflect Inuit language, culture, and their environment.

Iqaluit justice system as an example for Nunavik: The correctional services, local court system (Justices of the Peace) and legal aid services of Iqaluit are seen by the author as an example of how the court and legal system in Nunavik can function and meet the needs of the community. The detention centres are staffed almost completely by Inuit, and the programs that are used instill community-based and land-based skills that focus on teamwork and responsibility. The Justices of the Peace (JP) local court system represents a successful example of addressing community justice issues. Their success is due to the fact that "local matters are dealt with in a local basis and with local understanding". He goes on to say that "in the North there is a need for locally based problem solving rather than externally based problem solving, simply because things and problems are better understood on a local basis" (98-99). JPs are able to effectively

deal with those issues while at the same time they are able to include the community in a meaningful way. The JP program in the Northwest Territories gives JPs all the power of a Provincial Court Judge. As a result, they are able to address and hear all but indictable offences. These JPs are also given the authority to include the community in addressing conflict and criminal behaviour. Further, the Task Force found that in the smaller communities, the JPs are all Inuit. The Legal Aid Clinic in Iqaluit - Malihanik Tukisiiniakvik - was also seen as a positive step in addressing Northern justice issues and was deemed particularly important for Nunavik. Nothing like these structures existed in Nunavik.[3]

Variety of issues when discussing justice and justice delivery: Tensions exist regarding criminal justice issues in Nunavik. These tensions were articulated at a Quebec training course on cross-cultural information and understanding. They revolve around the role of traditional

Inuit social control systems in modern Inuit society and the benefits and limitations of indigenizing the existing criminal justice system. While hard and fast answers are not available, the issues that are presented require serious attention so that a further understanding of the needs of particular communities can be discerned.

Obonsawin-Irwin Consulting Inc. ***Future Aboriginal Community Needs: An Addendum to the Sandy Lake and Attawapiskat First Nations Justice Pilot Project Evaluation Reports*****, July, 1992.**

This piece highlights lessons learned and the dynamics of community mobilization and power dynamics.

General Overview

This addendum is part of the Sandy Lake Pilot Justice Project Evaluation. In this addendum, a number of issues are addressed and conclusions are drawn regarding the development needs for future Aboriginal community justice projects. It was felt that such a focus required a separate annotation to ensure that the important 'lessons learned' from Sandy Lake are shared with communities who are undertaking the development of their own justice projects. In this addendum a number of findings, based on questionnaires, are shared; findings regarding what is needed in the community to accommodate a project such as the Sandy Lake Justice Project, the degree and type of training and community development work that is necessary before community justice projects can successfully be implemented, and the community resources needed. Based on these findings, the researchers draw a number of conclusions.

The methodology that guided their findings included: Questionnaires distributed to community leaders and justice personnel in both Sandy Lake and Attawapiskat. 37 returned questionnaires (from both communities) form the basis for these findings.

[3] Many of the voices in this collection do not share this positive view of the services offered. Their analysis of justice delivery in Iqaluit would be quite different.

Findings

The developmental needs of future Aboriginal justice projects: The respondents identified a number of areas that require attention when developing future community-based Aboriginal justice projects. They responded that **community involvement** must be ensured in the development stage and in the discussion on alternative and dispositions. They held that there is a need for conducting **legal education** sessions in the community for the community members and more **training** required for the Elders on the Elders' Council. They point out that *Criminal Code* cases cannot be diverted until a better understanding of court procedures and court systems are developed. It must be ensured that **community resources and facilities** are available to facilitate a wide range of sentencing options. For example, institutional resources for implementing a community service order, availability of probation services, substance abuse counselling and treatment programs, and wilderness camps and adequate lock-up facilities for intermittent sentences. The respondents supported the establishment of a **Community Justice Committee**. Such a Committee is important prior to developing a justice project to ensure community involvement and provide adequate resources for the project. The respondents also suggested that the community conduct a **needs assessment and develop a plan of action** prior to establishing a justice project.

Questions such as what the community leadership wants to achieve, previous community involvement in the justice system, court statistics and police occurrence reports and community perspectives on justice needs and how to address them would be incorporated. Finally, the respondents suggested that the justice project develop separately from the political process.

Administrative needs: Suggestions were requested for improving the administration of the justice project. The respondents replied that proper record-keeping and follow-up to the courts was needed. It was also noted that improvement of the courtroom and administration/counselling office facilities was needed.

Training needs: The respondents identified a number of training needs. Many held that training is required in understanding criminal and family law, in understanding the justice process and court procedure and that cross-cultural training was also required. Further, the respondents noted that an understanding of resources and how to use them needs to be developed so that the resources available for dispositions are utilized. It was also indicated that substance abuse training is required: the high number of alcohol-related cases requires an understanding of the root causes of substance abuse so that the court can adequately address and develop methods to deal with substance abuse. Training in how to deal with more serious cases was also indicated as well as administrative and office skills for staff.

Degree of community control and Ontario justice system control: A variety of responses were indicated when asked to comment on how much control the community should have and how much should stay with the government's justice system. Some said the community should have complete control, while others said it should be an even distribution. Some said it should not change from how it is at the time of the survey. Although there was variety in the degree of control, a number of concerns regarding community control were shared: Ensuring equality in the system, ensuring the protection of individual and societal rights, protecting the community from serious offences and offenders, and ensuring that the political influence of the Band Council is not exerted on the justice process in the community.

Conclusions and Recommendations for Further Project Development
Community Development: The researchers hold that a project development process should be established. Such a process would consist of three phases: a needs assessment phase, a project development phase, and a pre-implementation phase.

Adequate training: The researchers conclude that adequate training must be provided to all involved in the project. The training should reflect a balance between understanding and participating in the formal court procedures, while maintaining a level of creativity in recommending dispositions and sentencing. The researchers hold that all the staff has different training needs and these must be met.

Community resources required: While recognizing the unique nature of First Nation communities, the researchers conclude that a number of community resources are required for a community-based justice project to be successful. A **community justice committee** facilitates community involvement and agency coordination from implementation and operation of a justice project. For **community service orders** to be effective there has to be community-based volunteers and employers to provide supervision. **Adequate lock-up facilities** are essential in isolated communities where the residents intend to utilize intermittent sentences. Without it, the Elder is limited in his or her disposition options. **Inter-agency cooperation** is also a community resource required to accommodate a justice project in the community. A number of agencies can and should be used to assist in the sentencing and counselling process. For example, substance abuse counsellors, probation officers, group homes, child and family service workers, mental health workers, educational counsellors and schools are all vital agencies. **Adequate space** is required for court and office facilities. The court environment should represent the need to adequately participate. Office space must meet the need for privacy.

Pauktuutit. *A Community Perspective on Health Promotion and Substance Abuse*; Ottawa: Inuit Womens Association, 1993.

The relationship between substance abuse and social problems (such as violence and criminal activity) is a link that is made in this report. To address crime, the health of Northern communities, along with the major community concerns that prevent the development of a healthy community, must be understood and acted upon. This report, addressing the Northern environment and the dynamics of community mobilization and power dynamics, holds that the justice system is only one area where change must come from.

General Overview
This report is based on a survey, questionnaire distributed to individuals and organizations involved in the Inuit health field. After summarizing the findings of the survey, the report profiles the communities within the NWT, Nunavik and Labrador that responded.

The methodology consisted of an 11- page questionnaire, geared towards determining community problems and community needs, which was distributed to 186 individuals and organizations involved in the Inuit Health field. The questionnaire was in Inuktitut and English. 55 questionnaires were completed and returned. The survey was focused on gathering

information on a wide range of factors that potentially impact upon the health of individuals, families and communities.

Themes/Assumptions

- A wide variety of personal, social, economic and political circumstances contribute to the problems of substance abuse. In turn, substance abuse exacerbates these (and other) personal, social, economic and political problems. The relationship between substance abuse and other serious social problems is a cyclical one.
- The World Health Organization's definition of Health is adopted for the discussion: Health is the "physical, spiritual, mental and social well-being of individuals and communities".

Findings

Many Inuit communities in the North are not healthy.

Substance abuse: variations and implications for delivery of services: Substance abuse is identified as the most serious problem facing communities. However, there are regional differences in relation to the type of substance abuse. It is important to note that for the Northwest Territories the substance most concerned about is *drug* abuse, followed by *substance* abuse and then *alcohol* abuse. This has important implications for delivery of services.

Knowing the needs of the community: While it is important to be aware of the regional differences that exist, the researchers hold that it is more important to be aware of individual community needs. This report, in the section on community profiles, provides a community-by-community breakdown of the issues that most affect each community. This is invaluable for the direction that should be taken by the community to adequately address their particular concerns.

Other serious concerns: Other serious concerns, apart from substance abuse, were identified by the respondents. In the Northwest Territories the three major concerns (listed in order of importance) are housing, unemployment and drug abuse. In fact, housing is on the list of major concerns for all the communities that responded.

There exists a diversity of community needs: There are a variety of circumstances, problems and resources between communities - some need immediate attention (such as sewage systems) whereas others speak to a long-term, holistic strategy. This diversity must be recognized and incorporated on two fronts. First, substance abuse and health promotion must be based on a holistic strategy that relies on coordinated efforts of varying agencies. Secondly, a community-level strategy must be developed by the community to meet their particular needs.

Community participation needed: When respondents were asked "in your opinion what is the most important thing needed to improve the overall health, well-being and happiness of people in your community" there was a strong desire for community participation and cooperation to guide the approach or strategies.

Importance of community participation: The best hope in health promotion and addressing substance abuse in Inuit communities is to tap into and use the energy and commitment of the community and the resources it has to offer - its knowledge and human resources.

Inter-related nature of the causes of community illness and the solutions to address it: By affecting alcohol and substance abuse, a community is actively addressing a number of other inter-related issues such as criminal activity, violence and abuse.

Recommendations

Community Resources Team: A community resources team could be established to coordinate existing community services, creating a cooperative problem solving approach amongst all organizations at the local/community level. Resulting from such a holistic, grassroots approach would be a streamlined and coordinated system of service delivery that includes all relevant agencies and individuals.

National Inuit Substance Abuse Project: Such a project would mobilize and coordinate local community resources (such as a Community Resources Team) and act as a resource/educator.

Pauktuutit. *The Housing Crisis and Violence.* Ottawa: Inuit Women's Association, 1995.

This report highlights the Northern environment.

General Overview

Pauktuutit prepared this report for the Canadian Mortgage and Housing Corporation. The first section overviews the causes and consequences of the disastrous housing conditions in the North. The second part of the report links the housing crisis to domestic violence, making a strong case for the need to have the housing crisis adequately addressed in any strategy for change in Inuit communities, especially one that intends to meet the justice needs of the community.

Themes

- The high rates of spousal assault, Elder abuse and low education attainment in Inuit communities in the North are directly linked to the devastating and disastrous housing conditions.
- Inuit women are particularly vulnerable as a result of the housing crisis. The virtual absence of alternate housing arrangements makes it very difficult for women to leave an abusive relationship.
- The Northern context is very different from the Southern context. In the North, the small isolated communities, plagued by unemployment and poverty, require different 'solutions'. Strategies based in the Northern experience will have more success affecting the social conditions of the North than Southern ones.

Findings

Need for immediate attention: While the population is rising in the North, housing is deteriorating. Severe overcrowding, inadequate and unsafe living conditions characterize the housing situation in the North where the Inuit occupy 90% of social housing units in the Inuit regions of the Northwest Territories. With a population of 57,649, more than 3,584 households are in need of core housing. That is, they are either unaffordable, inadequate or inappropriate for living in.

Lack of funding: The lack of funding by the federal government and the limited resources of the Government of the Northwest Territories has contributed to this situation.

Dehumanizing living conditions: These living conditions are related to substance abuse, family violence, child sexual abuse, suicide and low education attainment by youths. Students who lack a place to work and study will more often than not drop out of school. Elders suffer from physical and financial abuse as a result of overcrowding and the frustrations of younger generations as a result of their reliance on parents.

Housing and domestic violence: The housing crisis in the North affects the dynamics and cyclical nature of domestic violence in a number of ways. Not only does the lack of housing and poor living conditions exacerbate the occurrence of domestic violence, the lack of alternative housing make it difficult for a woman to leave an abusive relationship. Community members, the network of family and friends are already overcrowded and as a result cannot offer respite to the victim. As options decrease, the potential violence increases. Further, most communities do not have a shelter that a woman can use. This means that the woman, to effectively escape the violence, more often than not has to leave the community. This necessary exodus creates a whole host of other problems. Being forced to leave a support system and employment, having to choose whether to go back to the community or make a new life in another one, having to face the criticisms of the community for leaving, the high cost of travel and often being forced to leave the children behind are some of the problems that exist. These problems often seem insurmountable for woman to deal with and as a result, she may stay in the abusive home. The cycle of violence then continues, and part of that cycle is grounded in the housing crisis.

Role of Shelters: There is much debate about the role of shelters. Shelters are often inaccessible to abused Inuit women in many ways: because of their location (they are often far from the community and as such high financial and human costs arise) and form (they are seen as an inappropriate way of addressing the problem). For some communities a shelter for women may be the answer. For others, however, shelters may be problematic. For example, in communities that are small and isolated and do not have adequate policing services, there must be attention paid to the question of how the woman and the shelter will be protected from the abuser. Similarly, in small isolated communities the physical and psychological effects of having the victim and the abuser in the community may be difficult for the shelter to address. This means that another, more geographically and culturally specific focus is necessary. Any justice initiative must be aware of the dynamics of domestic violence in the North and the tensions that potential solutions create.

Conclusions

- Funding must be supplied by the federal government to end the intolerable living conditions in Northern comminutes.
- Policies and decisions affecting housing must not re-victimize people seeking assistance or safety. For example, rent should be based on income and number of children, and adequate and safe housing must be available to families. The problem of overcrowding must be addressed.
- The report discusses the innovative Northern solutions and strategies to ending family violence: (1) Establish shelters for abusers so they can cool off and get counseling. The report holds that many Inuit women in the North do not necessarily want the

relationship to end - just the violence. (2) Develop second-stage housing for women just coming out of shelters. This ensures that follow-up support and a more effective healing period is possible. Without this support the cycle of violence continues because in many cases the abused woman has no other alternative but to go back to the community and family home. (3) Develop multi-service centres as opposed to a victims' shelter, representing a holistic approach to addressing problems in the community. Such a multi-centre would address social services, education, and health, and would provide linkages to other agencies.

Winther, Neil, Corporal Paul Currie, Ken Bighetty (Resource Persons). "Northern Fly-In Sports Camps: A Self-Responsibility Model for Delinquency Prone Youth", in *Preventing and Responding to Northern Crime*, Burnaby: Northern Justice Society, Simon Fraser University, 1990.

This article, part of a workshop compendium, provides an example of how to incorporate recreation into crime prevention techniques for youths in Aboriginal communities. Addressing the Northern context, lessons learned, and the dynamics of community mobilization, the presenters make cleat the idea that prevention is key in Aboriginal communities (as elsewhere) and that real prevention takes place outside of the criminal justice system.

General Overview

The Northern Fly-In Sports Camp (NFISC) represents a way that many Northern First Nations communities (in Sakatchewan, Manitoba and Alberta) are responding to and preventing youth from becoming involved in criminal activity. It is a non-profit national organization that supplies the infrastructure and resources for recreational activities. This article discusses the development of the NFISC , their experiences, and the impact it can have on Northern communities. The resource persons for this discussion was led by Neil Winther (President, Northern Fly-In Sports Camps; Associate Professor, Faculty of Physical Education and Recreation Studies, University of Manitoba), Corporal Paul Currie (Director, Northern Fly-In Sports Camps, Native Policing Coordinator, RCMP, Manitoba) and Ken Bighetty (Northern Fly-In Sports Camps Summer Employee, Pukatawagan Indian Band, Manitoba)

Themes

- Northern communities present particular challenges that make organized recreation difficult. Vast spaces and limited resources make organized recreation a challenge.
- There is a link between boredom and youth crime. It is not the only factor, but it is important. If that boredom is addressed, criminal activity may be affected. Physical recreation - through activities such as hiking, camping, organized sporting activities - is one way to do that.
- Although this organization is Southern-based, it understands that there exists a wide variety of needs in Northern communities. Through consultations with the community, it makes available environment-appropriate activities.

Findings

Operation of the NFISC: The program, with the help of many sponsors and in partnership with the RCMP, meets with Chiefs and Community Councils to develop a plan. The resulting program comes out of the community and belongs to the community. The organization acts as a resource and implements the program. The NFISC organization has an infrastructure supplied by the sponsors - such as planes – as well as funding and the use of specialists in the field of recreational activity. It is up to the community to decide the form and it is the youth that decide its success. The NFISC spends a couple of weeks or more with the community and provides recreation, leadership skills and activities to the youths. It is organized in such a way as to facilitate the maintenance of the skills and interests that are developed by the youth.

Role of boredom in youth crime and the NFISC: Currie, the RCMP officer, discusses how the youth crime in Northern Manitoba is often in the area of vandalism and property crime. He points out that these youths almost always leave a note with their name or some other identifying feature at the scene to ensure the authorities know who did it. This is so that they may be given a 'trip out of the community'. Activities, organized and relevant to the needs of the youths, may successfully address this.

Impact on crime: In Northern Manitoba, north of the 53rd parallel, there have been considerable changes since the community youth participated in the sports camps. Although the RCMP officer noted an overall increase in crime rates, in the four communities that participated in the sports camps, there was a 17.4% drop in crime while the camp was there. They have not had any negative feedback from the communities, and the impact on youth self-esteem and community involvement has been great.

Wood, Robert. "Indian Government Youth Court System: The Case of St. Theresa Point, Manitoba", in *Preventing and Responding to Northern Crime* , Northern Justice Society: Simon Fraser University, 1990.

This article, part of a workshop compendium, highlights the operation of a successful community-based justice initiative in Manitoba on a First Nation Reserve. The initiative focuses on young offenders. It is important to note that the objectives, issues and concerns of a community-based youth justice initiative will be very different from those revolving around the development and administration of community-based initiatives for adult offenders. Power dynamics, healing and prevention as well as types of offenses dealt with are issues that make it very important to know the goals and limitations of each community. This piece speaks to lessons learned as well as the relationship with the mainstream justice system.

General Overview

In this article the development, goals and operation of the Youth Court in St. Theresa Point, Manitoba, is outlined. The youth court is discussed as an alternative system, developed in the community, intended to not only keep the youths in the community out of the formal court system and custodial facilities, but also to address the problems that brought them there in the first place. The impetus for its design was the epidemic of sniffing in the community. Since it began in 1984 no youths have been found to be sniffing and the crime rate has deceased

significantly (as of 1990 when this was published). Robert Wood is the Coordinator, Indian Government Youth Court System, St.Theresa Point, Manitoba.

Themes

- The amalgamation of traditional forms of dispute resolution and modern needs and processes can be a successful venture. Flexibility is important in ensuring success.
- The formal system does not work. It fails the youths and the community.
- Community involvement and representation underlies the initiative.

Findings

Goals and objectives of the Youth Court System: The main goal of the initiative is to keep youths out of the formal court system and address the problems that encourage them to engage in crime-related, anti-social activity. The focus is not just on applying sanctions to the youth, but on utilizing other resources - such as education and employment opportunity development, to create a holistic and relevant response.

Role of the community: The community determined and defined the needs that the Youth Court would fulfill (the need to take ownership of crime and related problems, the need to ensure that the youth take responsibility for their actions, and the need to deal with youths according to community standards and traditions). Community volunteers operate the Court and they attempt to not only incorporate the needs of the offender but also the justice needs of the community.

Operation of the Youth Court System: Referrals come from RCMP, an agency or individual within the community (such as schools, parents, and nurses). Once the cases are received the Community Youth Court Committee reviews them and assesses the types of services that will be required by the Youth Court Committee and the community agencies it is affiliated with. If they feel that the community resources can meet the needs of the youth a Case Management Group will design recommendations (such as probation, community service, fines, apology or a combination). The youth and his or her parents sign the recommendation. There is also a Youth Court Judge, selected by the Chief and Council. The Judge is someone from the Band. They consult with Elders on how the disposition should be handled. He or she may dismiss the charge, assign a probation order or refer it to the provincial court system. The Youth Court deals with minor offences and follow-up is done on a monthly basis to ensure that the conditions are being met. The Youth Court system is accountable to the Chief and Council of the Band who retain final authority.

Role of outside agencies/agents: Like most alternatives, the initiative is reliant on approval and referral from the RCMP. As a result, it has to have the support of the RCMP. It also uses the mainstream system as a 'safety valve'. If the matter is too serious for the community and/or the community lacks resources to attend to the offenders needs and the protection of the community, the Youth Court Judge or the Committee will refer it to the provincial court. It is also important to be aware of the fact that the initiative operates without funding, relying instead on the resources available in the community.

Zellerer, Evelyn, Greg Saville, Darryl Wood and Curt Griffiths. "Responses to Crime in Northern Communities", in *Justice and Northern Families: In Crisis... In Healing... In Control*, Burnaby: Northern Justice Society, Simon Fraser University, 1994.

This article, part of a workshop compendium, addresses justice issues in the North, and draws some conclusions about crime patterns, the administration of justice and community justice initiatives in the Baffin region. The study highlights various issues concerning crime and justice in the Baffin Region, offers guidance for community planners and those involved in criminal justice and social services in the North. Running through this piece are lessons learned, an articulation of the Northern environment, the relationship with the mainstream system, as well as the dynamics of community mobilization and power dynamics.

General

This article is a discussion, by the researchers, of the preliminary findings regarding their study *Crime, Law and Justice in the Baffin Region* (available from Simon Fraser University, 1995). The purpose of the study is not to make evaluations, but to gather information. It is intended as a useful tool for government and communities involved in the development and administration of justice at the territorial and community level.

The methodology of their study included RCMP files and official agency data from the Territorial courts, and RCMP and Corrections files at every RCMP detachment in the Region. They also conducted in-depth interviews with more than 300 community residents, community resource people and individuals involved in the delivery of justice.

Themes

- The community dynamics differ across the Baffin region; there exist great variation in a number of areas. These dynamics are very important to understand if community-based justice initiatives are going to meet with a measure of success.

Objectives and Preliminary Findings

Objectives of the project: Various objectives guided the project. (1) To gather rates and patterns of criminality in the Baffin region. (2) To gather the perceptions of Inuit political leaders, community leaders, community residents and criminal justice and social service personnel regarding the nature and extent of crime. (3) To determine the factors that distinguish high and low trouble communities. (4) To gather the views of community and criminal justice agents regarding the delivery of justice and the potential for developing community-based alternatives. (5) To consider the viability of alternative models of justice delivery.

Preliminary findings -- Crime rates: Crime rates in the Baffin region are much higher than the Canadian average.

Preliminary findings -- Variations in patterns of crime: The study found that there is huge variation in rates and patterns across the Baffin region and the differences are a result of a number of factors. Specifically, the level of disruption to traditional lifeways, the level of and working ability of an infrastructure of personal and community resources, the status of Elders in the community, and the level of intergenerational conflict in the community.

Preliminary findings -- High level of violence directed towards women: The researchers found that the levels of spousal and sexual assault indicated that the cycle of violence is destroying the lives of many victims and offenders. They held that even though the needs of victims in small communities may be a challenge to meet, those needs must be addressed.

Preliminary findings -- The role of alcohol: The role of alcohol and alcohol abuse in communities across the Baffin region, as well as community response to it, varies. While some communities are dry because of by-laws enacted by the community, some are dry because of the strength of informal social controls and the dynamics of the community. These differences in informal social controls and community dynamics are very important to understand if any initiative is to be effective.

Preliminary findings -- Property offenders: The researchers have found that in many communities a relatively small number of individuals are responsible for most of the property offenses. The age median is 20 years. However, they note there are different patterns that emerge for crimes of violence.

Preliminary findings - Levels of dependency on the criminal justice system: The communities across the Baffin region differ in the demands they place on the criminal justice system agencies and personnel, as well as the expectations they have of what they, as communities, can and cannot accomplish to address crime. In other words, while some communities have developed a strong dependency on the criminal justice system and expect it to address their disputes, other communities see the community as the responsible agent for addressing anti-social or criminal behaviour.

Preliminary findings -- Perceptions of justice agencies and personnel: Although communities differed, there was generally more support in the community for the roles and functions of the RCMP and less for the circuit court.

Preliminary findings – Absence of knowledge about Inuit culture: RCMP officers indicated that they were given little training and knowledge about the Inuit tradition, culture and ways of knowing and doing.

Preliminary findings – The success of community-based justice initiatives is dependent upon a host of factors: The success is dependent upon such things as the dynamics of the community, specifically the support and involvement of community residents and the role and respect of Elders, as well as the political leadership.

Preliminary findings -- Community justice initiatives require a strong infrastructure: Communities lacking a strong infrastructure are limited in their ability to develop and maintain effective community justice structures. A strong infrastructure provides the basis for controlling criminal and troublesome behaviour. Without one, the offender will not receive the needed assistance from the community and the behaviour will continue.

Preliminary findings - The role of the formal criminal justice system: The researchers held that an offence threshold should exist in community-based justice systems as they develop and operate in the North. In other words, serious crimes should be dealt with and handled by the

formal mainstream justice system. When a violent crime occurs, a community-based initiative may not be able to adequately protect the victim and the community from the offender. If the community-based cannot adequately protect the community and the victim, the offender will re-victimize and terrorize the community. As a result, the formal criminal justice system deals with offenders and offences that the community cannot adequately address.

Conclusions

- Communities in the Baffin region represent a variety of needs, abilities and views.
- Initiatives must be developed by and for the community.
- The prevalence of spousal assault and sexual assault demands that the causes and consequences of these crimes are well understood in any community- based justice system. Although it may be difficult to address and meet the needs of victims of violence in small isolated Northern communities it must be done. If the community-based initiative cannot effectively do that, the larger formal system must.